

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**1997 Legislative Session**Bill No. CB-105-1997Chapter No. 79Proposed and Presented by Council Member EsteppIntroduced by Council Member Estepp

Co-Sponsors

Date of Introduction October 21, 1997**BILL**

AN ACT concerning

Pretrial Release Monitoring Businesses

For the purpose of providing for the licensing and regulation of Pretrial Monitoring
Businesses.

BY adding:

SUBTITLE 5. BUSINESSES AND LICENSES.

Sections 5-339, 5-340, 5-341, 5-342,

5-343, 5-344, 5-345, 5-346, 5-347,

5-348, and 5-349,

The Prince George's County Code

(1995 Edition, 1996 Supplement).

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

SUBTITLE 5. BUSINESSES AND LICENSES.**DIVISION 25. PRETRIAL RELEASE MONITORING BUSINESS LICENSE.****Sec. 5-339. Definitions.**

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

(1) **Court** means the Circuit Court for Prince George's County, the District Court

of Maryland for Prince George's County, or any other court or public agency which has allowed a defendant who resides in the County to be released to a pretrial agency.

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

(3) **Department** means the Office of Business and Regulatory Affairs.

(4) **Director** means the Director of the Office of Business and Regulatory Affairs.

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

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

Sec. 5-340. Licenses required.

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

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

Sec. 5-341. Application; fee; qualifications.

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

(b) Any person desiring to be licensed as a pretrial agency in the County shall file with the Director a written application on a form approved by the Director. Each application shall

be accompanied by the sum of Five Hundred Dollars (\$500.00) as application fee.

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

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

Sec. 5-342. License; bond required.

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

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

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

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

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

(d) Cash bonds shall be deposited with the County Director of Finance. Such cash bonds shall be maintained by the County Director of Finance in an interest bearing account for

three (3) years after the date of expiration of the license or the date of the expiration of any renewal period for which such bond was deposited by the licensee. If the County Director of Finance is notified in writing that a suit has been filed against any such licensee as a result of which a judgment may be payable out of such cash bond, the County Director of Finance shall retain such cash bond until such time as such suit has been reduced to judgment and the period for filing an appeal from such judgment has expired or the judgment debtor has waived in writing his right to take an appeal or until such time as such suit has otherwise been disposed of.

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

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

Sec. 5-343. Background investigation.

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

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

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

(2) a sworn statement or affirmation disclosing the existence of a conviction or

pending charges without final disposition for the commission of, attempt to commit, or assault with the intent to commit any crime, other than a violation of the Motor Vehicle Code.

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

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

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

Sec. 5-344. Term of licenses; renewal.

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

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

Sec. 5-345. Renewal; revocation or suspension of license.

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

- (1) Fraud or deceit in obtaining a license.
- (2) Abiding, abetting or knowingly combining or conspiring with any person with the intent to evade the provisions of this Division.
- (3) Failing to perform, without justification, any order of a Court regarding a defendant monitored by the licensee.
- (4) Failure in any material respect to comply with the provisions of this Division and other laws and to correct promptly upon notice any failure to comply with the laws of the County and the State.
- (5) A pretrial agency or an agent of a pretrial agency may not solicit business on the property or grounds of a courthouse or the County detention center.

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

Sec. 5-346. Issuance of licenses; restrictions.

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

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

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

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

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

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

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

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

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

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

Sec. 5-347. Pretrial agencies; operational qualifications.

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

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

Sec. 5-348. Monitoring of defendants.

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

(1) the licensed pretrial agencies which are qualified to monitor defendants in the County.

(2) the number of defendants the pretrial agency is authorized to monitor, and

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

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

Sec. 5-349. Violations and penalty.

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

SECTION 2. BE IT FURTHER ENACTED that the Director shall submit to the County Council, on or before August 1, 1998, a written review of the effectiveness of the licensing

and bonding requirements imposed on pretrial agencies pursuant to this Act.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 25th day of November , 1997.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY:
Wayne K. Curry
County Executive

KEY:
Underscoring indicates language added to existing law.