

Code of Maryland
Article - Business Occupations and Professions
Title 20 – Private Home Detention
§20–101-§20–701

(MD General Assembly webpage
<https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gbo§ion=20-101&enactments=false>)

Subtitle 1 – Definitions §20–101.

- (a) In this title the following words have the meanings indicated.
- (b) “License” means a license issued by the Secretary to operate a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.
- (c) “Licensed private home detention monitoring agency” means a person who is licensed by the Secretary to conduct a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.
- (d) “Private home detention monitor” means an employee of a licensed private home detention monitoring agency who personally monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency.
- (e) “Private home detention monitoring agency” means a person who conducts a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.
- (f) “Secretary” means the Secretary of Public Safety and Correctional Services.

Subtitle 2 – Duties of the Secretary §20–201.

- (a) In addition to any duties set forth elsewhere, the Secretary shall adopt and enforce regulations to carry out this title, including regulations that establish:
 - (1) minimum standards for electronic equipment capable of monitoring 24 hours per day individuals who are under a court order that requires monitoring by a private home detention monitoring agency;

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(2) minimum training and experience requirements for a private home detention monitoring agency licensee and for a private home detention monitor; and

(3) the minimum number of private home detention monitors that shall be on duty in relation to the number of defendants being monitored.

(b) The Secretary shall:

(1) maintain a roster of licensed private home detention monitoring agencies that includes:

(i) a telephone number at which a person who operates a licensed private home detention monitoring agency can be reached during normal business hours; and

(ii) a telephone or pager number at which a person who operates a licensed private home detention monitoring agency can be reached during nonbusiness hours;

(2) annually disseminate the roster of licensed private home detention monitoring agencies to:

(i) the administrative judge for the District Court in each district;

(ii) the administrative judge for the circuit court in each county; and

(iii) the Administrative Office of the Courts; and

(3) notify the agencies listed in paragraph (2) of this subsection when the license of a private home detention monitoring agency is suspended or revoked.

Subtitle 3 – Licensing §20–301. (§20–301 - §20–318)

A person shall be licensed by the Secretary as a private home detention monitoring agency before operating a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

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§20–302.

- (a) To qualify for a license, an applicant shall meet the requirements of this section.
- (b) The applicant and anyone the applicant employs as a private home detention monitor shall be of good character and reputation.
- (c) The applicant and all individuals employed as private home detention monitors shall satisfy the minimum training and experience requirements provided in regulations adopted by the Secretary.

§20–303.

- (a) (1) An applicant for a license shall submit to the Secretary:
 - (i) an application on the form that the Secretary provides; and
 - (ii) an application fee of \$500.
- (2) The application fee is nonrefundable.
- (b) (1) The application form provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under § 20-701 of this title.
 - (2) The applicant shall sign the application under oath.
- (c) In addition to any other information that the Secretary requires, the applicant shall provide:
 - (1) the name, date of birth, and residence address of the applicant;
 - (2) the address of the applicant's proposed principal place of business and of each proposed branch office;
 - (3) a telephone number at which the applicant can be reached during normal business hours;
 - (4) a telephone or pager number that can be used to reach the applicant during nonbusiness hours; and

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- (5) the name and permanent address of each individual the applicant intends to employ as a private home detention monitor.
- (d) An applicant for a license shall submit with the application form:
 - (1) a bond in accordance with the requirements of § 20-601 of this title; and
 - (2) proof of liability insurance, as required under § 20-602 of this title.

§20–304.

Before an individual may begin working as a private home detention monitor:

- (1) the private home detention monitoring agency shall submit to the Secretary, on the form that the Secretary provides, the name of the individual; and
- (2) the individual shall apply for State and national criminal history records checks under § 20-305 of this subtitle.

§20–305.

- (a) In this section, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.
- (b) An applicant for a license under this title and an individual whose name must be submitted under § 20-303(c)(5) of this subtitle shall apply to the Central Repository for State and national criminal history records checks on a form approved by the Director of the Central Repository.
- (c) For each individual applying for State and national criminal history records checks under subsection (b) of this section, the Central Repository shall:
 - (1) notify the Secretary of the receipt of the application for State and national criminal history records checks;

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- (2) process the State and national criminal history records checks and forward to the Secretary and the individual a printed statement listing the finding of a felony conviction; and
 - (3) process an update of the initial State criminal history records check and forward to the Secretary a revised printed statement listing the finding of a felony conviction for an offense occurring in the State after the date of the initial criminal history records check.
- (d) An individual applying for State and national criminal history records checks shall submit to the Central Repository:
- (1) a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other location approved by the Secretary;
 - (2) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and
 - (3) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.
- (e) A private home detention monitoring agency or an applicant for a license to operate a private home detention monitoring agency may pay the fees required in subsection (d) of this section for an individual it intends to employ as a private home detention monitor.
- (f) Information obtained by the Secretary under this section shall be confidential and may not:
- (1) be used for any purpose other than that for which it was disseminated; and
 - (2) be redisseminated.

§20–306.

- (a) This section applies to an individual required to apply for State and national criminal history records checks under this subtitle.
- (b) An individual may contest the finding of a felony conviction reported in a printed statement issued by the Department as provided in this section.

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(c) (1) In contesting the finding of a felony conviction, the individual shall contact the office of the Secretary, or a designee of the Secretary, and a hearing shall be convened within 20 workdays, unless subsequently waived by the individual.

(2) The Secretary, or a designee of the Secretary, shall render a decision regarding the appeal within 5 workdays after the hearing.

(d) For the purposes of this subtitle, the record of a felony conviction or a copy of the record certified by the clerk of the court or by a judge of the court in which the conviction occurred shall be conclusive evidence of the conviction.

(e) Failure of the individual to appear at the scheduled hearing shall be considered grounds for dismissal of the appeal.

§20–307.

(a) (1) The Secretary shall issue a license to each applicant who satisfies the requirements of this title and any regulations adopted under this title.

(2) (i) The Secretary shall issue a private home detention monitoring agency license certificate to each licensed agency.

(ii) For each additional office the private detention monitoring agency proposes to operate, the Secretary shall issue a branch office certificate.

(b) (1) The Secretary shall include on each agency license certificate that the Secretary issues:

(i) the full name of the licensee;

(ii) the location of the private home detention monitoring agency and of each branch office, if any;

(iii) the date of issuance of the license; and

(iv) the date on which the license expires.

(2) The Secretary shall include on a branch office certificate:

(i) the full name of the licensee;

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- (ii) the location of the principal office of the licensee and of the agency branch office for which the certificate is issued;
- (iii) the date of issuance of the branch office certificate; and
- (iv) the date on which the license of the licensee expires.

§20–308.

While a license is in effect, it authorizes the licensee to:

- (1) operate, in accordance with applicable laws and regulations, a business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and
- (2) employ qualified individuals to work as private home detention monitors on behalf of the licensee.

§20–309.

- (a) Unless a license is renewed for a 2-year term as provided in this section, the license expires on the date set by the Secretary.
- (b) At least 2 months before a license expires, the Secretary shall mail or electronically transmit to the licensee:
 - (1) a renewal application form; and
 - (2) a notice that states:
 - (i) the date on which the current license expires;
 - (ii) the amount of the renewal fee; and
 - (iii) that the submission of a false statement in the renewal application or in the annual statements is cause for revocation of the license.
- (c) The Secretary shall renew the license of each licensee who satisfies the requirements of this title and any regulations adopted under this title.

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§20–310.

(a) As a condition for license renewal, a licensee shall submit to the Secretary with the renewal application:

(1) a certification or, as authorized by the Secretary, other documentation that the licensed private home detention monitoring agency has paid, for the past 2 years, all withholding and Social Security taxes;

(2) a certification or, as authorized by the Secretary, other documentation that the licensed private home detention monitoring agency has paid, for the past 2 years, all other obligations employers are required to pay on behalf of their employees to the State or federal government;

(3) a certificate of compliance issued by the State Workers' Compensation Commission, or the number of a workers' compensation insurance policy or binder as provided by § 9-105 of the Labor and Employment Article;

(4) a receipt from the Comptroller's Office or, as authorized by the Secretary, other documentation showing that the State income tax of the licensed private home detention monitoring agency has been paid for the past 2 years;

(5) (i) a bond in accordance with the requirements of § 20-601 of this title; and

(ii) proof of liability insurance, as required under § 20-602 of this title; and

(6) a renewal fee of \$100.

(b) If the Secretary does not receive the documents required under subsection (a) of this section at least 21 days before the current license expires, the Secretary may charge the licensee a late fee of \$10 per day until the documents are received.

(c) The Secretary may inspect any of the business records of a licensee that relate to any matter that is subject to certification or documentation under this section.

§20–311.

(a) A licensee shall maintain an office in the State.

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- (b) A licensee shall keep in an office in the State all files or other records that:
- (1) are made in the State; and
 - (2) relate to individuals monitored by the licensee.

§20–312.

- (a) Within 21 days after the change, a licensee shall submit to the Secretary written notice of:
- (1) the addition of a branch office; and
 - (2) a change in the address of the private home detention monitoring agency or branch office.
- (b) The licensee shall submit with the notice:
- (1) a photocopy of the agency license certificate; and
 - (2) if the proposed change affects an existing branch office, a photocopy of the branch office certificate for that office.
- (c) The Secretary shall issue a new agency license certificate and, if applicable, a new branch office certificate, both of which shall set forth the same expiration date as the original agency license certificate.

§20–313.

- (a) Each licensee shall have on the premises at all times:
- (1) the agency license certificate in the office of the private home detention monitoring agency; and
 - (2) the branch office certificate in the agency branch office for which the certificate was issued.
- (b) (1) If an agency license certificate or branch office certificate is lost or destroyed, the licensee immediately shall notify the Secretary.

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(2) On receipt of notice of the loss or destruction of an agency license certificate or branch office certificate, the Secretary may issue a duplicate.

§20–314.

(a) Subject to the hearing provisions of § 20-316 of this subtitle, the Secretary may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

- (1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) fraudulently or deceptively uses a license;
- (3) while not licensed, willfully engages in a business providing private home detention monitoring services in the State;
- (4) while not licensed, willfully advertises as a private home detention monitoring agency;
- (5) willfully makes a false statement or misrepresentation that an individual is or was in the employ of the applicant or licensee;
- (6) has a felony conviction;
- (7) knowingly employs or knowingly continues to employ a private home detention monitor after being notified by the Secretary that the individual has a felony conviction;
- (8) willfully makes a false statement or misrepresentation in any renewal application, in any annual statement, or in any other report or document that the Secretary requires to be submitted;
- (9) fails to notify the Secretary about any change in the address of the private home detention monitoring agency or any branch office of a licensee;
- (10) fails to maintain a bond as required by § 20-601 of this title;
- (11) fails to maintain the liability insurance required under § 20-602 of this title;
- (12) violates any other provision of this title; or

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(13) violates a regulation adopted under this title.

(b) For purposes of this section, an act or omission of any principal, agent, or employee of an applicant or licensee may be construed to be the act or omission of the applicant or licensee, as well as of the principal, agent, or employee.

§20–315.

(a) (1) Subject to this section, the Secretary shall commence proceedings under § 20-316 of this subtitle on the Secretary's own complaint or on a complaint made to the Secretary by any person.

(2) If a complaint is made by any person other than the Secretary, the complaint shall be made under oath by the person who submits the complaint.

(3) A complaint shall:

(i) be in writing;

(ii) be signed by the complainant; and

(iii) state specifically the facts on which the complaint is based.

(b) On receipt of a complaint that alleges facts that are grounds for action under § 20-314 of this subtitle, the Secretary shall assign an employee to investigate the complaint.

(c) (1) On conclusion of the investigation, the employee who conducted the investigation shall determine whether there is a reasonable basis to believe that there are grounds for disciplinary action under § 20-314 of this subtitle.

(2) If the employee who conducted the investigation finds a reasonable basis as provided under paragraph (1) of this subsection, the Secretary shall act on the complaint as provided under § 20-316 of this subtitle.

§20–316.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes final action under § 20-314 of this subtitle, the Secretary shall give

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the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

- (b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.
- (c) The Secretary may administer oaths in connection with any proceeding under this section.
- (d) The person may be represented at the hearing by counsel.
- (e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Secretary may hear and determine the matter.

§20–317.

Within 5 days after the Secretary suspends or revokes the license of a person, the person shall surrender to the Secretary the agency license certificate and each branch office certificate issued to the person.

§20–318.

When the Secretary makes a determination to suspend or revoke the license of a private home detention monitoring agency, the Secretary shall immediately notify:

- (1) the administrative judge for the circuit court in each of the counties where the private home detention monitoring agency monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and
- (2) the administrative judge for the District Court in each of the districts where the private home detention monitoring agency monitors individuals who are under a court order that requires monitoring by a private home detention monitoring agency.

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Subtitle 4 – Responsibilities of Private Home Detention Monitoring Agency §20–401.

- (a) A private home detention monitoring agency shall:
- (1) monitor individuals in accordance with any applicable orders of court;
 - (2) monitor 24 hours a day and 7 days a week individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and
 - (3) utilize electronic equipment or other monitoring methods that meet or exceed standards established in regulations by the Secretary.
- (b) (1) Upon determining that a defendant subject to private home detention monitoring under the provisions of § 5-201(b) of the Criminal Procedure Article has been missing for 24 hours, the private home detention monitoring agency responsible for monitoring the defendant shall, on the next business day, notify the court that ordered private home detention monitoring as a condition of the defendant's pretrial release.
- (2) If the court that ordered private detention monitoring as a condition of a defendant's pretrial release under the provisions of § 5-201(b) of the Criminal Procedure Article requests that it be notified if the defendant violates any other conditions of pretrial release, the private home detention monitoring agency responsible for monitoring the defendant shall provide the court with the requested notice.
- (c) Upon determining that an individual who is subject to private home detention monitoring as a condition of probation has been missing for 24 hours, the private home detention monitoring agency responsible for monitoring the individual shall, on the next business day, notify the Division of Parole and Probation.

§20–401.

- (a) A private home detention monitoring agency shall:
- (1) monitor individuals in accordance with any applicable orders of court;
 - (2) monitor 24 hours a day and 7 days a week individuals who are under a court order that requires monitoring by a private home detention monitoring agency; and

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(3) utilize electronic equipment or other monitoring methods that meet or exceed standards established in regulations by the Secretary.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, on determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has violated a condition of home detention monitoring, the private home detention monitoring agency responsible for monitoring the defendant shall notify within 24 hours:

(i) the court that ordered private home detention monitoring as a condition of the defendant’s pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(2) On determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has tampered with home detention monitoring equipment or failed to maintain home detention monitoring equipment as required by a court order, the private home detention monitoring agency responsible for monitoring the defendant shall notify within 1 hour:

(i) the court that ordered private home detention monitoring as a condition of the defendant’s pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(3) On determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has entered an area that the defendant is expressly prohibited from entering as a condition of pretrial release, the private home detention monitoring agency responsible for monitoring the defendant shall notify immediately:

(i) the court that ordered private home detention monitoring as a condition of the defendant’s pretrial release; and

(ii) the designated law enforcement agency, as determined by the court, in Baltimore City or the county where the court is located.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, on determining that an individual who is subject to private home detention monitoring as a condition of probation has violated a condition of home detention monitoring, the

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private home detention monitoring agency responsible for monitoring the individual shall notify within 24 hours the Division of Parole and Probation.

(2) On determining that an individual who is subject to private home detention monitoring as a condition of probation has tampered with home detention monitoring equipment, or failed to maintain home detention monitoring equipment as required by a court order, the private home detention monitoring agency responsible for monitoring the individual shall notify within 1 hour the Division of Parole and Probation.

(3) On determining that an individual who is subject to private home detention monitoring as a condition of probation has entered an area that the individual is expressly prohibited from entering as a condition of pretrial release, the private home detention monitoring agency responsible for monitoring the individual shall notify immediately the Division of Parole and Probation.

(d) (1) A private home detention monitoring agency may not knowingly fail to give notice as required by this section.

(2) The Secretary may impose a civil penalty on a private home detention monitoring agency for a violation of this subsection that does not exceed:

(i) \$1,000 for the first day for which the private home detention monitoring agency fails to give notice; and

(ii) \$250 for each subsequent day the private home detention monitoring agency fails to give notice.

(e) On request by the Division of Parole and Probation, the private home detention monitoring agency responsible for monitoring an individual who is subject to monitoring as a condition of probation shall forward a report of the individual's compliance during the monitoring period.

(f) A report under subsection (e) of this section, at a minimum, shall include:

(1) the conditions of monitoring set by the sentencing court;

(2) all infractions that the individual has committed during the monitoring period, even if the infraction did not result in a reported violation to the Division of Parole and Probation or the sentencing court; and

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(3) any other information in the possession of the private home detention monitoring agency concerning the individual that the Division of Parole and Probation determines is relevant.

Subtitle 5 – Agency Responsibility §20–501.

A licensed private home detention monitoring agency is responsible for the acts of each of its employees while the employee is conducting the business of the agency.

Subtitle 6 – Bond and Insurance Requirements §20–601.
(§20–601-§20-602)

- (a) (1) Subject to this section, an applicant for a license shall execute a bond that is conditioned on the faithful and honest conduct of the applicant and runs to the State for the benefit of any person injured by any wrongful act of the applicant that is willful or malicious.
- (2) The applicant shall submit the bond to the Secretary with the license application.
- (b) (1) The amount of the bond required under subsection (a) of this section shall be at least \$2,500.
- (2) The total liability of the surety to all insured persons under the bond may not exceed the penal sum of the bond.
- (c) A licensee shall keep in effect at all times a bond that meets the requirements of this section.
- (d) If a licensee's bond is canceled, forfeited, or terminated by the surety, the surety immediately shall notify the Secretary.
- (e) If a surety fails to notify the Secretary as required by this subsection, the bond shall continue in effect until the notice is given to the Secretary.

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§20–602.

- (a) The Secretary may adopt regulations requiring a private home detention monitoring agency to maintain a specific minimum amount of general liability insurance.
- (b) If the Secretary adopts regulations under subsection (a) of this section, a private home detention monitoring agency shall:
- (1) submit proof of the insurance to the Secretary; and
 - (2) notify the Secretary if the insurance is canceled, forfeited, or otherwise terminated.
- (c) If the Secretary adopts regulations under subsection (a) of this section, the Secretary may not issue a license to an applicant unless the applicant submits proof of the insurance required by regulation.

Subtitle 7 – Prohibited Acts: Penalties §20–701.

- (a) A person may not operate a private home detention monitoring agency in the State unless the Secretary has issued a license to the person.
- (b) A person who willfully and knowingly violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.