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March 10, 2020

To: The Honorable Luke Clippinger  
Chair, House Judiciary Committee

From: The Office of the Attorney General

Re: House Bill 1377 – Criminal Procedure – Conditions of Pretrial Release – Home Detention  
Monitoring

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Consistent with the Attorney General's on-going efforts to decriminalize poverty in Maryland, House Bill 1377 will restrict the use of agency fees on detention monitoring devices that place individuals further in debt to the criminal justice system.<sup>1</sup>

House Bill 1377 amends Section 5-201 of the Criminal Procedure Code to establish that a pretrial defendant being monitored by a private home detention monitoring agency as a condition of release may not be required to pay a home detention monitoring agency's monitoring fee or pay for a home detention monitoring device if the individual qualifies as indigent, or the State or local jurisdiction provides the private home detention monitoring device or a global position device.

Under Maryland Rules, the court may require that as a condition of a defendant's pretrial release, that the defendant be monitored by a private home detention monitoring device, for which the individual must pay a fee for the use of the court-mandated device. The fees for a private home detention monitoring agency range from anywhere between \$10 to \$20 per day.<sup>2</sup> The use of these devices has more than doubled in the last decade,<sup>3</sup> often placing already at-risk individuals thousands of dollars in debt, potentially placing individuals behind bars simply for a

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<sup>1</sup> Ava Kofman, *Digital Jail: How Electronic Monitoring Drives Defendants Into Debt*, PROPUBLICA (July 3, 2019), <https://www.propublica.org/article/digital-jail-how-electronic-monitoring-drives-defendants-into-debt>.

<sup>2</sup> See, Fiscal and Policy Note SB 513, at 2, [http://mgaleg.maryland.gov/2020RS/fnotes/bil\\_0003/sb0513.pdf](http://mgaleg.maryland.gov/2020RS/fnotes/bil_0003/sb0513.pdf).

<sup>3</sup> James Kilgore, Emmett Sanders, "Ankle Monitors Aren't Humane. They're Another Kind of Jail," WIRED, (Aug. 8, 2018), <https://www.wired.com/story/opinion-ankle-monitors-are-another-kind-of-jail/>.

failure to pay the fees for the court-ordered devices.<sup>4</sup> The privatization and profit-driven business of device monitoring fees penalize the indigent of Maryland, and place a heavier burden on those already facing an up-hill battle.

For the reasons stated above, the Office of the Attorney General urges a favorable report of House Bill 1377.

cc: Members of the House Judiciary Committee

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<sup>4</sup> Kofman, *supra* note 1.