



## **INFORMATIONAL TESTIMONY REGARDING OF HOUSE BILL 1125**

### ***Workgroup on Home Detention Monitoring – Report Alterations and Data Collection***

**TO:** Members of the Senate Judicial Proceedings Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law; The Criminal Defense and Advocacy Clinic, University of Baltimore School of Law

**DATE:** March 21, 2025

The University of Baltimore School of Law’s Center for Criminal Justice Reform (the “Center”) is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Criminal Defense and Advocacy Clinic (the “Clinic”) provides students with an opportunity to directly represent individuals charged with criminal offenses and develop a broad perspective on systemic issues in the criminal legal system. As we testified last session, we strongly support the need for the Home Monitoring Workgroup, established last year, and wish to offer additional context and experience to inform the relevant committees’ work on House Bill 1125.

Though we continue to support the need for this important work, we are concerned that the scope of the Workgroup’s current mandate, as written, misunderstands the relationship between the courts, detention monitoring entities, and Marylanders subject to their jurisdiction.

House Bill 1125 erroneously assumes that home detention monitoring entities appropriately determine when individuals have violated the terms of their electronic monitoring. In fact, the companies’ duty is simply to notify the court if they believe the person has failed to abide with the court-ordered conditions. The court decides if there has, in fact, been a violation. In some instances, a hearing before a judge will establish that no violation has occurred—for example, if there was an equipment malfunction or a misunderstanding.

By way of illustration, the Clinic represented a client in Baltimore in 2024 who was subject to pre-trial home detention monitoring by a private company. The client had been complying with the numerous conditions of his release when the company notified him that it would be informing the court of non-compliance. The client denied non-compliance, so his student attorneys pressed the company to investigate further. Ultimately, the company discovered the alleged non-compliance was due to a system malfunction—it erroneously showed that the client was in the middle of a river at 11pm. If the electronic monitoring company had been in a position to “violate” the client, or act without oversight, he could have been jailed, lost his employment and housing, in addition to being subject to many other severe collateral consequences of pre-trial incarceration. The committee should consider amending section (h) to accurately reflect the process and roles of the courts and companies.

Furthermore, the committee should consider gaps in the Workgroup's mandate of areas to study and its recommendations. We also recommend that the bill task the Workgroup with studying costs and benefits of whether home monitoring should be provided and paid for by the State and whether allowing private companies, driven by profits, to take on this important role is sound public policy. A growing body of scholarship has been exploring and documenting certain risks and unintended consequences of this structure, and the landscape of home detention monitoring as a whole.<sup>1</sup> Other appropriate additions may include, studying positive factors such as the dollar amount of state funds saved by the use of home detention, the number of individuals released on home detention who complied with the court requirements through case resolution, the number of individuals who retained employment while their case was pending, and the extent to which home detention is overrelied upon.

Finally, we reiterate our concerns from last year concerning the composition of the Workgroup. Specifically, the Workgroup continues to lack perspective from directly impacted people who have been on pre-trial home monitoring. Further, we maintain our objection to conferring voting rights on the representative member from the private home detention monitoring company. While we support the inclusion of their perspective, private businesses with a financial stake in the outcome should not be allowed to vote on the workgroup's policy recommendations.

We welcome the opportunity to further discuss this bill with you, your office, or other interested members of the General Assembly. Thank you for your work on this important issue.

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<sup>1</sup> See e.g., <https://lpeproject.org/blog/carceral-surveillance-and-the-dangers-of-better-than-incarceration-reasoning/>