

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 704
Condition of Pretrial Release – Home Detention Monitoring –
Alterations and Extension
DATE: February 16, 2022
(3/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 704. This bill impacts the Judiciary by making permanent the private home detention monitoring agency (“PHDMA”) payment program that was recently set up by the Judiciary.

In FY 2021, [HB 0316/CH0597](#) established an exemption for indigent defendants from the requirement to pay for pretrial services and home detention monitoring fees, placing the burden of these costs on the State. Without any input or discussion and against the protest of the Judiciary, the Department of Budget and Management informed the Judiciary in July (after the effective date) that the Judiciary was being given the money to run this program and was required to plan and implement this extensive program. No additional staffing was provided. House Bill 316, as implemented, established that pretrial services and home detention monitoring fees be paid by the Maryland Judiciary and are funded via a federal passthrough grant from the State to the Maryland Judiciary.

SB 704 would impact the Maryland Judiciary on a significant fiscal and operational level by requiring the payment of pretrial services and home detention monitoring fees by the Maryland Judiciary in absence of a federal funding source or any staffing or expertise in this area. In addition, when the Judiciary first was tasked with setting up the payment program, concerns were raised about whether this program was actually an administrative function more appropriate for the Executive Branch to handle. This concern remains and the Judiciary remains adamantly opposed. Having the Judiciary administer this program is inappropriate. It creates a conflict and the appearance of impropriety, especially since there are so few licensed companies. Moreover, the judicial branch of government is not in the business of detention services or the licensure of providers. These are executive branch functions; they always have been and should remain so. All detention facilities and services -- and any necessary licensure of private home detention providers are

currently run by executive department agencies. The Judiciary does not have the expertise to administer such licensure or to assess the competence of those providers.

In addition, there is no indication in Senate Bill 704 as to the funding source for this program as House Bill 316 involved a passthrough of federal funds. There is further no indication of how long these federal funds would be available or whether state funds would be appropriated. The Judiciary is not the appropriate entity to continue this program.

cc. Hon. Shelly Hettleman
Judicial Council
Legislative Committee
Kelley O'Connor