

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 704:

Conditions of Pretrial Release – Home Detention Monitoring – Alterations and Extension

TO: Hon. William C. Smith, and Members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Senior Policy Advocate

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The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates for policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. JOTF supports Senate Bill 704 as a means to ensure that indigent persons awaiting trial are not pushed further into debt or incarcerated while participating in private home detention programs throughout the state.

For the [10 percent of Marylanders living below the federal poverty line](#), the management and repayment of even small debts can be a major challenge. This challenge is further exacerbated for those with a criminal record, a significant barrier to employment. However, despite these known obstacles, those who interact with the criminal justice system are levied with fees and other criminal justice system fines in order to access pretrial release. While Maryland has [reformed its “cash bail” system in 2017](#), other forms of release are still similarly situated- specifically privatized home detention monitoring programs. ASAP Home Detention in the Baltimore Region for example charges roughly \$300 - \$550 per month to participate in their court-ordered home detention program. This does not include setup fees, taxes, or other extraneous charges. If a defendant fails to pay, they either risk incarceration for violating the conditions of their release or fall further into debt - with no realistic ability to pay it back.

This issue was exacerbated during the COVID-19 pandemic when courts moved swiftly to depopulate their facilities to mitigate health risks. The result was a marked rise in the use of electronic monitoring for home detention in Maryland. For jurisdictions like Montgomery County, which already foot the bill for pretrial home detention through their pretrial services fund, no extra financial burden was levied upon indigent persons. However, Baltimore County, Baltimore City, and Prince George’s County were entirely different stories. Baltimore County saw a [30% increase in fees paid by individuals on home detention](#), from \$89,000 to \$118,000 year over year. This was primarily due to pandemic-related court delays which increased the wait time for hearings by an average of three months. For those on pretrial home detention with ASAP, for example, that’s three more months of payments totally up to \$1650. Keep in mind that the individuals paying these fees are statistically underprivileged and jobless as they await trial. Applying for or maintaining employment with an ankle bracelet is extremely difficult.

Seeing this, Baltimore County [made the decision to foot the bill for pretrial home detention](#) in January 2021. However, most other counties still have not followed suit and have left indigent persons to fend for themselves- risking incarceration for the inability to pay. This is the criminalization of poverty, a topic

For more information, contact:

Christopher Dews / Senior Policy Advocate / Christopher@jotf.org / 301-412-5399

that JOTF wrote a [groundbreaking report](#) about in 2018. In that report, we revealed studies that show how fines and fees related to the criminal justice system burden the poor, even once they are released noting that with regards to pretrial electronic monitoring, the money spent on home detention does not return to the defendant upon release. They are essentially “out” of thousands of dollars for crimes many were *not* found guilty of committing. In this way, the private home detention monitoring market has extracted millions from primarily lower-income communities regardless of an actual conviction.

The assessment of fees onto those who are incarcerated, especially pretrial, creates an unbreakable cycle that can only be fixed by granting waivers to indigent defendants who show an inability to do so. Last year, the Maryland General Assembly did just that. This very committee [passed legislation](#) establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary, under the leadership of Chief Judge Morrissey, [created a uniquely efficient and effective program](#) that allows the court to foot the bill for any individual who qualifies for a public defender. When an individual submits the public defender paperwork, they are automatically enrolled in the payment program. If they have a private attorney, they must 1.) submit the public defender qualification paperwork to the district court, 2.) get an approval letter stating that qualify, and finally 3.) submit that qualification letter to the private home detention monitoring agency. Once these steps have been completed, the private home detention monitoring agency sends the bill to the courts instead of the defendant. This program has been extremely efficient and easy for community members and hundreds have already taken advantage of the program, saving tens of thousands of dollars.

With Morrissey and the courts steering this sea change, the various flaws and inequities of the current privatized home monitoring systems have been greatly exposed. As the courts examined processes to contract with private home detention monitoring agencies, some were discovered not licensed to practice in the state, others were charging individuals but were found not performing their monitoring responsibilities, and plenty more participated in price gouging. This has led to a growing consensus that the privatized home detention market is long overdue for abolishment or at least greater oversight. Last year’s legislation that the General Assembly passed into law also created a workgroup to study these issues but to date, that workgroup has never met. **Worse, both the payment program and the workgroup are set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty and a more just pretrial system.

Senate Bill 704 seeks to address this issue by expanding both the payment program and the workgroup through to June 30th, 2025. This will give stakeholders a chance to focus on needed systemic reforms to the private home detention monitoring market, create a unified, statewide pretrial services system, and maintain that indigent individuals do not fall further into poverty for their inability to pay excessive privatized home detention fees. For these reasons, we strongly urge a **favorable** report.

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