

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Alicia Pereschuk

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 43. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn’t have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704.**

Thank you for your time, service, and consideration.

Sincerely,
Alicia Pereschuk
321 W. 28th St
Baltimore MD 21211
Showing Up for Racial Justice Baltimore

SB0704_FAV_HOPE.pdf

Uploaded by: Antoin Quarles

Position: FAV



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: Antoin Quarles, Executive Director

DATE: March 9, 2022

H.O.P.E. empowers men and women to make the transition from incarceration to community successfully and permanently. We help connect returning citizens with practical matters to remove barriers of reentry, such as resources for job and GED training; managing case-worker and other appointments; and developing new coping skills, accountability, life laws, and strong relationships to help deal with the stresses of life outside jail or prison, as well as deeper hurt and trauma. We support 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 in order to access pretrial release-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.

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. 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.

Last year, the Maryland General Assembly [passed legislation](#) establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary [created a uniquely efficient and effective program](#) that allows the court to foot the bill for any individual who qualifies for a public defender. 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. **However, the payment program is set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty during pretrial.

Senate Bill 704 seeks to address this issue by expanding the payment program to June 30th, 2025. This will ensure 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.

SB0704_Arielle Juberg_FAV.pdf

Uploaded by: Arielle Juberg

Position: FAV

SB0704, Conditions of Pretrial Release – Home Detention Monitoring – Alterations and Extension
Testimony in Support

To: Chair Smith and members of the Senate Judicial Proceedings Committee
From: Arielle Juberg, Baltimore, MD 21234

My name is Arielle Juberg. I am a resident of Baltimore County in District 8. I belong to Showing Up for Racial Justice (SURJ) in Baltimore. SURJ is working in collaboration with Out for Justice and the Job Opportunities Task Force. I am testifying in **support** of SB0704, Conditions of Pretrial Release – Home Detention Monitoring – Alterations and Extension.

SB0704 matters to me because our justice system should not treat people differently based upon their income or the amount in their bank account. Maryland residents who are awaiting trial are in jail cells because they cannot afford home detention monitoring fees. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person's liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August 2020](#). These costs add up to even more as the pandemic has caused delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn't have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

Last year, Senate Bill 23 provided funding for home detention and electronic monitoring, but this only applied to fiscal year 2022. While COVID-19 may have been the catalyst for this policy, it should be continued for moral, social, and financial reasons. For all these reasons, I am encouraging you to vote **in support** of SB0704. Thank you for your time, service, and consideration.

sb704.pdf

Uploaded by: Brian Seel

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 46 and **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

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Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704.**

Thank you for your time, service, and consideration.

Sincerely,

Lilly Chapa
212 S Washington St

Christina Pham Linhoff
46 E Randall St

Holly Powell
2308 Cambridge St

Brian Seel
223 S Wolfe St

Liz Simon-Higgs
308 E Randall St

Showing Up for Racial Justice Baltimore

SB0704_FAV_JOTF (2).pdf

Uploaded by: Christopher Dews

Position: FAV

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

DATE: March 9, 2022

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.

For more information, contact:

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

SB0704_FAV_JOTF_SignOn (1).pdf

Uploaded by: Christopher Dews

Position: FAV

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

DATE: March 9, 2022

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For more information, contact:

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

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The Undersigned Persons/Organizations Support this Legislation

1. Baltimore Action Legal Team (BALT)
2. Out for Justice (OFJ)
3. Office of the Public Defender (OPD)
4. Life After Release
5. Court Watch PG
6. ASAP Home Detention
7. ALERT, Home Detention
8. Helping Oppressed People Excel (H.O.P.E.)
9. Maryland Alliance for Justice Reform (MAJR)

For more information, contact:

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

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Daryl Yoder

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 12. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

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It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704**.

Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder

309 Glenmore Ave.

Catonsville, MD 21228

Showing Up for Racial Justice Baltimore

SB704_FAV_DwightKerney.pdf

Uploaded by: Dwight Kerny

Position: FAV

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: Dwight Kerny

DATE: March 9, 2022

My name is Dwight Kerney, and the Job Opportunities Task Force invited me to testify in favor of Senate Bill 704 to maintain funding for pretrial home detention in Baltimore City. I am 62 years old, a lifelong resident of Baltimore City's 43rd District, and am currently experiencing the misfortune of paying obscene electronic monitoring fees that I simply cannot afford.

When my grandson was arrested, the judge offered him the option to either be put on home detention or wait in jail for months. As his guardian and in the midst of the current pandemic, I knew that having my 22-year old grandson sitting in jail would be detrimental to his physical, mental, spiritual, and psychological well-being. I care about my grandson and could not let that happen to him, especially since the courts were mainly closed and I did not know when his case would be heard. Once someone is in the system, it is very difficult to escape.

In August 2020, the court connected us with ASAP Home Detention where I was informed that I would have to pay for his electronic monitoring device. The initial hook up fee was **\$282 upfront**, which they said was prorated due to the first visit and that future payments would be twice a month. Two weeks later, I was charged \$212 for the bi-monthly payment and urinalysis costs, and told that the next payment would be the regular rate. I was also informed that if I did not pay, my grandson would immediately be at risk for future jail time.

From September 2020 - March 2021, I paid \$364 per month (\$182 semi-monthly) to ASAP Home Detention with money that I simply do not have. Like many Americans, my wife and I have lost significant household wages since the pandemic started and we are struggling to pay our routine expenses including BGE, water, and vehicle maintenance. Worse yet, the court case continues to be postponed lengthening the overall number of necessary payments.

Senate Bill 704 will ensure that Marylanders in my grandson's position do not risk violating home detention and ending up in jail simply because the price of GPS monitoring exceeds our current monthly income. Something must be done to maintain funding for the court's current payment program and bring down the inflated price of GPS Monitoring for the hundreds of

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

thousands of Marylanders struggling. For these reasons, I urge a favorable report on Senate Bill 704.

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Erica Palmisano

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 12. **I am testifying in support of Senate Bill 704.**



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It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704.**

Thank you for your time, service, and consideration.

Sincerely,

Erica Palmisano
5580 Vantage Point Rd, Apt 5, Columbia, MD
Showing Up for Racial Justice Baltimore

SB0704_FAV_TravonJohnson.pdf

Uploaded by: Harold Coleman

Position: FAV

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: Travon Johnson

DATE: March 9, 2022

Good afternoon, my name is Travon Johnson and I was invited here by the Job Opportunities Task Force to speak in favor of Senate Bill 704. Last month, after a misunderstanding between me and my significant other, I found myself picked by the police. Even though my girlfriend moved to drop the charges three days later, I was stuck in jail and offered by the judge during my bail review, the option of Home Detention with GPS Monitoring a.k.a the box. Anyone will tell you that jail is an extremely unpleasant place- especially during the Coronavirus Pandemic- so when the judge offered me the chance to wait for my trial at home or in an unsanitized cell, I chose to go home.

What was not explained properly to me at the time, was how much going home would cost me financially. ASAP Home Detention, the company that demands payment to use their ankle bracelets, charged me **\$240 upfront** and told me, after much debate, that I would have to pay a minimum of \$70 every week or risk reincarceration. This was extremely unsettling for me, as I knew, undoubtedly, that I didn't have the money. I was anguished by the fact that the judge had not told me about this and in my recollection, this electronic monitoring service used to be free. It made no sense to me that during a pandemic when people are home and there is evidence of more domestic altercations because of economic stresses in people's lives, that the state would charge people **\$280 a month** to stay home.

I explained to ASAP my concerns and bewilderment at the costs- to which I was excoriated and threatened by the staff to sign on to the paperwork. They repeatedly stated that if I did not sign up for these expensive services at that moment, that I would go back to jail. When I asked them to explain the complexities of the documents to me, they repeatedly refused. You must understand- my freedom was at stake- and it is both traumatic and bewildering to strong-arm someone into signing documents they don't fully understand, charge them excessive fees for service, and then threaten/bully them with incarceration until they do so.

I worked out a deal with my lawyer who split the upfront cost of \$240 with me but I shouldn't have had to. That the cost for hook up and the following **\$280 per month** even exist is a serious problem in Baltimore. It has come to my attention that there are no electronic monitoring costs in Montgomery County and I firmly believe that the entire state should follow suit- especially for people who don't have the money to buy their freedom. No one should risk going to jail because they can't afford 'freedom fees.'

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Senate Bill 704 will go a long way towards fixing this issue for myself and the hundreds of others in the struggle right now. For these reasons, I urge a favorable report.

Senate Bill 704 to JPR - March 9 - SUPPORT - Fund

Uploaded by: Henry Bogdan

Position: FAV



marylandnonprofits.org

1500 Union Avenue | Suite 2500 | Baltimore, MD 21211
410.727.6367 | 800.273.6367 | Fax 410.235.2190

March 9, 2022

Testimony on Senate Bill 704
Conditions of Pretrial Release - Home Detention Monitoring –
Alterations and Extension
Senate Judicial Proceedings Committee

Position: Favorable

Maryland Nonprofits is a statewide association of more than 1300 nonprofit organizations and institutions. We urge you to support Senate Bill 704.

In 2021, the General Assembly passed House Bill 319 (Chapter 597) that assured that indigent defendants would not be denied access to pre-trial home detention programs simply by virtue of their inability to afford program fees. With federal funds that became available last October the Judiciary itself assumed responsibility for paying the monitoring fees.

Prior to that Act, in certain jurisdictions private monitoring services were charging up to \$500 a month in electronic monitoring fees to the state's poorest populations, with incarceration as the alternative for non-payment. The new procedure authorizing payment on behalf of indigent defendants has successfully kept hundreds of defendants a month from detention during the pandemic, and it was a progressive step in the ongoing effort to decriminalize poverty. But now, that process is set to expire later this year.

Senate Bill 704 will allow for a three-year extension to the Judiciary's private home detention monitoring payment program and will also allow the opportunity for a workgroup to study the issue further.

We urge you to give Senate Bill 704 a favorable report.



Maryland Nonprofits' mission is to strengthen organizations and networks for greater quality of life and equity.

SB0704_FAV_DecrimMD.pdf

Uploaded by: Iman Freeman

Position: FAV



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: Iman Freeman - Chair of the People's Commission

DATE: March 9, 2022

The People's Commission to Decriminalize Maryland was established in 2019 with the purpose of reducing the disparate impact of the justice system on Marylanders who have been historically targeted and marginalized by local and state criminal and juvenile laws based on their race, gender, disability, or socioeconomic status. We support 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 in order to access pretrial release-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.

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. 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.

Last year, the Maryland General Assembly [passed legislation](#) establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary [created a uniquely efficient and effective program](#) that allows the court to foot the bill for any individual who qualifies for a public defender. 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. **However, the payment program is set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty during pretrial.

Senate Bill 704 seeks to address this issue by expanding the payment program to June 30th, 2025. This will ensure 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.

SURJ Pretrial Home Detention Funding 2022 3 9.pdf

Uploaded by: Jan Kleinman

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 40. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn’t have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704**.

Thank you for your time, service, and consideration.

Sincerely,
Jan Kleinman
816 Union Ave
Baltimore, MD 21211
Showing Up for Racial Justice Baltimore

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Jonathan Smeton

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 40. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn’t have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704**.

Thank you for your time, service, and consideration.

Sincerely,
Jonathan Smeton
Baltimore, MD 21211
Showing Up for Racial Justice Baltimore

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Katherine Wilkins

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of **District 12. I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

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Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704.**

Thank you for your time, service, and consideration.

Sincerely,

Katherine Wilkins
10651 Gramercy Pl
Columbia MD 21044

Showing Up for Racial Justice Baltimore

Testimony for Senate Bill 0704 2022.pdf

Uploaded by: Linda Green

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 0704:

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

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

FROM: Linda D. Green MD

DATE: March 2, 2022

Linda D. Green MD, Life After Release

I am writing to support Senate Bill 0704 which is important in keeping poor residents awaiting trial from accumulating debt that limits their ability to be self-supporting. Private home detention programs are extremely expensive throughout the state and have been a burden to residents facing the criminal justice system and also to their families and supporters. As a four year volunteer with Participatory Defense, a program of Life After Release, I have seen how impossible it was for many loved ones to pay for home detention devices and how relieved they were when legislation was passed last year to fund this program. It was especially frustrating when cases were delayed by the courts and I watched the financial burden grow.

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 in order to access pretrial release- 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.

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. 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.

Last year, the Maryland General Assembly passed legislation establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary created a uniquely efficient and effective program that allows the court to foot the bill for any individual who qualifies for a public defender. 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. **However, the payment program is set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty during pretrial.

Senate bill 0704 seeks to address this issue by expanding the payment program to June 30th, 2025. This will ensure that indigent individuals do not fall further into poverty for their inability to pay excessive privatized home detention fees. For these reasons, I strongly urge a **favorable** report. Thank you for your consideration.

Sincerely,



Linda D. Green MD
3113 Varnum Street
Mount Rainier, Maryland 20712
lindadgreen@gmail.com

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Lindsay Keipper

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of Maryland District 46, and **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

I am a prosecutor who has been working in the criminal justice system for nearly 15 years; unsurprisingly, I sometimes feel compelled to recommend that judges detain people who are charged with crimes because of public safety concerns. During the pandemic, judges began to consider home detention as a middle ground on pretrial detention, between holding folks in jail or releasing them with instructions to stay out of trouble. Like many of my colleagues, the pandemic led me to re-tune my thinking about pretrial detention and recommend home detention instead of jail when I felt it could safely be done. This should have been a good move for everyone, but it turned out the result was that we had repeated the mistakes we made with cash bail, by making people’s release from jail conditional on their monetary resources.

Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell, and people whose families scrape together the money to pay are left struggling to make ends meet with the knowledge that whenever their payments slip, the private detention company will report it to the court which will put the person back in jail.

Home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the Baltimore Sun reported in August, 2020¹. These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer. While this may be a steep price for everyday folks, it’s actually a net savings to the state: Baltimore County recently eliminated home monitoring fees for its pretrial detainees, and announced that the cost of the home detention program (\$538,000 per year) was much lower than the cost to hold the same number of people in jail (\$3 million per year).²

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704.**

Thank you for your time, service, and consideration.

Sincerely,
Lindsay Keipper
2425 Fleet St.
Showing Up for Racial Justice Baltimore

¹<https://www.baltimoresun.com/coronavirus/bs-md-ci-cr-home-detention-coronavirus-20200828-aqhhndiaereorga6246jjnywqe-story.html>

² <https://www.baltimorecountymd.gov/county-news/2021/01/04/baltimore-county-eliminates-home-monitoring-fees>

SB704_FAV_Malik Baynes.pdf

Uploaded by: Malik Baynes

Position: FAV

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: Malik Baynes

DATE: March 9, 2022

My name is Malik Baynes and I support(s) 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.

I was born and raised in the Cherry Hill neighborhood on the southside of Baltimore, Maryland. On January 1st, 2022, I was court-ordered to participate in a home detention program sponsored by ASAP Home Detention until the date of my trial in April of this year. When I arrived at the facility to acquire my electronic monitoring devices, ASAP informed me that the setup charges would be \$410 off rip with an extra \$30 charge for a urinalysis exam. Nowhere in my court orders was a urinalysis test mandated but I was informed by ASAP that I must pay the extra \$30 to participate or violate the conditions of my release. After agreeing to these terms in order to maintain my freedom, I was informed that I would owe \$240 every two weeks to ASAP Home Detention and that missing a payment could, again, be a violation of my court orders. A screenshot of the paperwork I was given is attached.

The overarching concern I had at this moment is one that anyone would have in my position. \$240 biweekly equals \$480 monthly and while on home detention, I did not see how it would be possible to pay this fee. My fiancée stepped up to plate and fronted the \$410 in startup costs. The \$480 was still going to be a problem. While discussing my situation with ASAP, a young lady named Ulonda approached me and informed me of a program that she was participating in where the courts were paying for her home detention program because she qualified as “indigent.” She gave me the phone number to JOTF and we worked together to have me set up with the Judiciary’s Payment Program. I have submitted the public defender paperwork to the district court and am looking forward to starting.

Mr. Dews informed me that this program may be over before it truly began. I have been told that it will end in June and that persons like myself will be forced to struggle financially to survive the home detention payments. Not everyone has a fiancée as skilled and wonderful as mine who can hold it down for them. As grateful as I am, \$480 a month is far too much for indigent persons to pay while on pretrial and my fiancée should not have to finance the criminal justice system. Other counties like Baltimore County and Montgomery already ended privatized home detention and I believe the entire state should follow suit. For those reasons, I urge a favorable report on SB704.

MOPD Lima testimony favorable SB0704.pdf

Uploaded by: Marianne Lima

Position: FAV



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 0704 - Conditions of Pretrial Release - Home Detention Monitoring – Alterations and Extension

FROM: Marianne Lima, Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 8, 2022

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on Senate Bill 0704.

SB 0704 will extend the funding for pretrial home detention monitoring to be available across the state to appropriate defendants regardless of their ability to pay. A publicly-funded home monitoring system promotes justice, improves safety, and increases efficiency. As an Assistant Public Defender based in our Central Booking office in Baltimore City, I know first-hand how vital this program has been in reducing unnecessary court proceedings; addressing the overuse of pretrial incarceration that became more urgent with COVID; and ensuring that people who are presumed innocent can continue to care for their children, seek or maintain employment, receive appropriate community-based services, and avoid accumulating unaffordable debt.

Because of the high volume of clients incarcerated in Baltimore, line attorneys lack the capacity to fully represent all of their clients on reconsideration of the bail review process while also preparing for trials. My role is focused on the distinct pretrial challenges, but I am only able to represent a small percentage of the more than 1,800 people incarcerated by Department of Corrections while awaiting trial. On average, I respond to 8 to 15 referrals every week from attorneys asserting valid legal challenges to a client's bail review determination, in addition to requests for modification regarding home detention.

Inappropriate pretrial incarceration is among the most egregious violation to basic liberty interests. Consistent with constitutional principles, Maryland law limits pretrial incarceration to a last resort for people deemed to pose a safety or flight risk and for which there are no alternative options to reduce such risks. Examples of my OPD clients who would have been subject to continued incarceration were it not for the availability of publicly funded home detention are:

- An 18 year old student with no prior arrests was charged with false statement to an officer

and multiple criminal traffic infractions. But for publicly funded home detention, he and his family would be unable to afford home detention, and he would have been incarcerated for 57 days waiting for adjudication.

- A 38 year old woman with no prior convictions was charged with primarily conspiracy crimes in which she denies having any involvement. She suffers from such serious health diagnoses that she was medically deemed unable to work since 2013. But for publicly funded home detention, she would have been incarcerated for 35 days as of today.

While I focus on Baltimore City clients, the need for publicly funded home monitoring is statewide, and helps address unique jurisdictional challenges. For example,

- In some jurisdictions, before this payment system was established, judges would never consider home monitoring for someone who was deemed indigent and pretrial services are not available, so incarceration was automatic for anyone who was not released on their own recognizance.
- In jurisdictions along the state border, even if county-based programs are available they cannot always accommodate someone who would be appropriate but would require monitoring out-of-state. This system has allowed for at least one client to be on home monitoring in Delaware while awaiting trial in Maryland.

Given the devastating impact of incarceration and the fundamental liberty interests at stake, our professional legal ethics and our clients' constitutional right to effective assistance of counsel require that public defenders (and other defense attorneys) continuously and zealously challenge inappropriate pretrial incarceration. This requires filing habeas petitions, moving for reconsideration, and participating in hearings to address these concerns. The availability of home monitoring for individuals who cannot afford to pay for it has proved a useful tool for commissioner and bail review judges to order release without requiring additional litigation. In addition to allowing for the most appropriate decision at the earliest instance, it has also reduced subsequent litigation. For example, prior to publicly funded home detention, a Public Defender client who had no prior convictions was granted home detention by the District Court. Although he had work permissions, he was unable to find employment as he was on lock-down other than leaving the home for work, making securing job interviews an onerous task. The costs were becoming prohibitive, as he had been on private home detention for over 5 months, paying approximately \$140 every 2 weeks. The OPD filed two motions for modification seeking relief, and, after a hearing, he was finally released from private home detention supervision, with his case ultimately *nol prossed* 4 months later. While continued funding may benefit from incorporating administrative costs in running the program, even its current iteration, the reduced detention and litigation has a net cost-saving for all of the criminal justice players, including the Judiciary, Public Safety, and county jail systems.

The over-incarceration of people accused (but not convicted) of crimes in Maryland has been a significant concern for many years, and have been further heightened during the pandemic, as the crowded confined conditions pose exceptionally dangerous conditions for COVID to spread. Among the greatest barriers identified by judges to release were the lack of available options. This bill adds a trusted option for all appropriate defendants, not just those with financial means.

While we are hopefully turning a corner on this world-altering pandemic, we must continue to commit to reducing pretrial incarceration and providing sufficient alternatives such as home monitoring.

For these reasons, the Maryland Office of the Public Defender respectfully urges a favorable report on Senate Bill 0704.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Marianne Lima, Assistant Public Defender, marianne.lima@maryland.gov.

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Martha Schmitz

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 42B. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn’t have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

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It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704**.

Thank you for your time, service, and consideration.

Sincerely,
Martha Schmitz
14 Greentree Dr
Phoenix, MD 21131
Showing Up for Racial Justice Baltimore

OFJ SB0704_FAV.pdf

Uploaded by: Nicole Hanson-Mundell

Position: FAV



OUT FOR JUSTICE

TESTIMONY IN SUPPORT OF SENATE BILL 704:

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

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Nicole Hanson-Mundell, Executive Director, Out for Justice, Inc.**

DATE: March 9th, 2022

Out for Justice, Inc. (OFJ) is an organization led by individuals who are both directly and indirectly impacted by the criminal justice system. We advocate for the reform of policies and practices that adversely affect successful reintegration into society. We accomplish our mission through the three E's: 1) **ENGAGE** formerly incarcerated individuals, families and friends through grassroots outreach and community events; 2) **EDUCATE** our member base and communities on the policies and practices impacting our communities and navigating the legislative process for reform; 3) **EMPOWER** those impacted by the criminal justice system to utilize their voices and experiences to enact tangible change.

Out for Justice, Inc. supports Senate Bill 704 as a means to ensure that people awaiting trial are not unnecessarily incarcerated, simply because they cannot afford to pay their home detention fees.

In Maryland, home detention fees are part of a pattern of criminalizing poverty and unequal access to justice. Ten [percent of Marylanders living below the federal poverty line](#). For these Marylanders, affording basic food and shelter is a major challenge. There is no money left over to pay an additional \$300 - \$550 per month to participate in their court-ordered home detention program. Simply because they are struggling financially, Marylanders living in poverty may be unable to walk free before their trial or they may accumulate burdensome debt that worsens their financial situation. Meanwhile, their peers with more income may walk free and not be burdened by long term debts.

While individual waivers may sometimes occur, many more individuals are unsure how to access these waivers and, therefore, find themselves trapped behind bars before they are proven guilty of any crime. These people incarcerated pre-trial are being, in effect, sentenced to long lasting criminal legal consequences for crimes they are not convicted of. While incarcerated for months awaiting trial, they may lose their treasured job, lose their housing because they cannot earn money to pay rent, lose custody of their children, and suffer serious mental health effects as a result of suddenly being separated from their loved ones and valued life. Even if a person is found innocent, these losses may impact them and their families for years to come.

Last year, the Maryland General Assembly [passed legislation](#) establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary [created a uniquely efficient and effective program](#) that allows the court to foot



OUT FOR JUSTICE

the bill for any individual who qualifies for a public defender. 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. **However, the payment program is set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty during pretrial.

Senate Bill 704 seeks to address this issue by expanding the payment program to June 30th, 2025. This will ensure 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.

Sincerely,

Nicole Hanson-Mundell
Executive Director
Out for Justice, Inc.

SB0704-JPR_MACo_SUP.pdf

Uploaded by: Nicole Harlock

Position: FAV



Senate Bill 704

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

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: March 9, 2022

From: Nicole Harlock and D’Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS** SB 704. This bill would, among other provisions, require the Maryland judiciary to fund private home detention monitoring agencies and home detention monitoring devices for eligible indigent defendants.

Pretrial release is often costly, but frequently needed in the interests of justice and to account for the capacity limits of our correctional facilities. For indigent defendants, the State of Maryland has assumed many pretrial costs on behalf of counties, including for home detention monitoring services and devices. This arrangement has been invaluable in allowing counties the flexibility to address certain COVID-19-related needs including social distancing and the isolation of infected detainees. SB 704 specifies the State’s costs will be borne by the judiciary going forward, but maintains stressed county correctional facilities will not share in this burden.

This bill reaffirms the State’s commitment to allowing indigent defendants awaiting trial to maintain some freedom, and the prevention of overcrowding and stretching of resources at county correctional facilities. For this reason, MACo **SUPPORTS** SB 704 and urges a **FAVORABLE** report.

SUPPORT HB 704.pdf

Uploaded by: Philip Caroom

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



March 10, 2022

To: Chair Will Smith and Senate Judicial Proceedings Com. members,
From: Phil Caroom, MAJR Executive Committee

Maryland Alliance for Justice Reform supports SB 704 to continue the removal of fees charged by some counties for citizens' participation in pretrial release supervision programs. Last year's one-year COVID emergency plan to do this worked very well. Three factors should persuade the committee to continue the program: Constitutional, fiscal and public safety.

1) Constitutional concerns: Poor citizens should not be held in pretrial detention just because they afford pretrial release fees any more than they should be held in detention because they cannot pay a bail bond that more affluent citizens could pay. The Supreme Court has ruled that "*Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception... [The government may hold those who] pose a threat to the safety of individuals or to the community which no condition of release can dispel*" and those found likely to flee. Because inability to pay a small pretrial detention supervision fees do not "pose a threat" or show likelihood of flight, Maryland counties that rely on user-fees for pretrial supervision may be seen to violate their citizens' constitutional rights.

2) Taxpayers' concerns: The failure to maintain such programs for the benefit of citizens is penny-wise and pound-foolish. Maryland pretrial detention costs to our counties, according to recent years' estimates, range from \$83-\$153 per-inmate per-day. By comparison, pretrial assessment & supervision programs cost approximately \$2.50 per person per day. Once incarcerated on a pretrial basis, studies show that defendants are more likely to receive additional incarceration at sentencing – thus, further increasing taxpayers' burdens.

Thus, considerable taxpayer funds are saved by eliminating these fees.

3) Public safety: Studies show that "failure to appear" rates for those with pretrial supervision equals those of our traditional bail systems. With nondiscriminatory pretrial risk assessments, those "high risk" to reoffend may be kept in pretrial detention and those "low or moderate" may be released safely with appropriate supervision conditions.

For all these reasons, Maryland Alliance for Justice Reform strongly supports SB 704.

Please note: This testimony is offered for Md. Alliance for Justice Reform (www.ma4jr.org), not for the Md. Judiciary.

SB704_FAV_CourtWatchPG.pdf

Uploaded by: Qiana Johnson

Position: FAV

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: Fiona Apple, CourtWatchPG

DATE: March 9, 2022

CourtWatchPG 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 in order to access pretrial release-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.

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. 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.

Last year, the Maryland General Assembly [passed legislation](#) establishing a state-funded pretrial payment program for indigent persons who are on privatized home detention. The Judiciary [created a uniquely efficient and effective program](#) that allows the court to foot the bill for any individual who qualifies for a public defender. 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. **However, the payment program is set to expire on June 30th, 2022**, reversing tremendous gains in the right direction for decriminalizing poverty during pretrial.

Senate Bill 704 seeks to address this issue by expanding the payment program to June 30th, 2025. This will ensure 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.

SB704_FAV_GabrielleBates.pdf

Uploaded by: Qiana Johnson

Position: FAV

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: Gabrielle Bates, CWPG

DATE: March 9, 2022

My name is Gabrielle Bates and I work with Court Watch PG. We support 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 in order to access pretrial release- 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.

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SB704_FAV_WilliamHaines.pdf

Uploaded by: Qiana Johnson

Position: FAV

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: William Haines

DATE: March 9, 2022

I support(s) 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 in order to access pretrial release- 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.

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FAVBaltTestimony_2022_SB704.pdf

Uploaded by: Samantha Blau

Position: FAV

TESTIMONY in Favor of SB 704
Conditions of Pretrial Release - Home Detention Monitoring - Alterations and Extension

TO: Chair Smith, Vice Chair Waldstriecker, and members of the Judicial Proceedings Committee
FROM: Samantha Blau on behalf of Baltimore Action Legal Team

My name is Samantha Blau, and I am the Policy and Engagement Director at Baltimore Action Legal Team (BALT). I submit this testimony in favor of Senate Bill 704. Since its founding in 2015, BALT remains committed to educating community members about their rights, ensuring access to public records, and operating support funds for people who cannot afford to pay the costs associated with pretrial incarceration.

Since our founding we have operated a bail fund to provide financial assistance to community members who need help posting bond. The Public Defender's Office has regularly relied on our bail fund, reaching out on behalf of clients hoping to stay out of pretrial detention. But in March 2020 BALT began receiving a different kind of request for assistance which we had never heard encountered before. Instead of covering a one-off bond request, we were being asked to pay a daily fee for their clients to receive private home detention that was court mandated. BALT agreed to help these community members as part of our mission, but we did not anticipate the volume of requests nor the staggering costs of home monitoring. By June a BALT member was driving to Towson once a week to make cash payments of \$1,000 to cover our new clients' fees. Before the Judiciary finally took over making these payments in October 2021, BALT helped over 140 people pay for their court ordered private detention, amounting to over \$225,000 in detention fees that would otherwise have burdened these individuals. BALT continues to cover the cost of private home detention for those who are not poor enough to meet the state's standard of indigency, yet still struggle to pay the minimum daily rate of \$14.00 while waiting months for their trial to begin.

It is essential to ground this bill in the lived experience of those serving pretrial home detention in Baltimore City. While a person is awaiting trial on home detention, they are very much being detained, even as they are officially listed in case records as "Released on Recognisance." We find that most people are prohibited from leaving their home - even for essential responsibilities such as maintaining a job that would provide income to cover the costs of home detention.¹ Private detention is overwhelmingly cost prohibitive for these individuals, with rates at \$396/month, maintaining the room and board of their imprisonment, and zero income.

You may believe that this is a fitting punishment for a person who broke the law, but punishment is reserved for someone who has already had a trial. The reality of pretrial detention and its outcomes show it is ineffective in achieving its public policy goals - and disproportionately harmful for the impacted individuals. In 2019 76% of all cases in Baltimore City in which a person was held without bail at least once ended up having all of their charges dropped, acquitted, or a mixture of dropped and acquitted. This means more than three-quarters of all defendants whom the court deemed ineligible for pretrial release

¹ As the judiciary does not keep official records of people currently in court-ordered private home detention, this trend is based on the firsthand accounts of BALT's clients on home monitoring.

were not found guilty.² Because the court does not keep a record of how many people are assigned to pretrial private home detention, I am unable to share how many people placed on pretrial home detention are not found guilty, but that rate could very well be equally staggering.

I hope that one day Maryland law will reflect that no person should have to pay to be monitored by the state. At this time I ask that at least our most marginalized community members continue to be given the protections affirmed in *Nelson v. Colorado*, that the presumption of innocence protects a defendant from having to pay fines and fees. I urge a favorable report on SB 704 from this committee.

² As found in BALT's analysis of bail hearings and case outcomes for Baltimore City in 2019.

SB 704 - Pretrial Home Detention - Funding for EI

Uploaded by: Sarah Johnson

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of District 41 in Baltimore City. **I am testifying in support of Senate Bill 704.**



This bill will remove fees for pre-trial home monitoring systems for “indigent” defendants.

In a just legal system, no person should be kept in a jail cell merely because they cannot afford a monetary payment. Yet that is exactly what is happening every day throughout the state of Maryland. When a person is arrested and accused of a criminal offense, a judge decides whether to release or detain the person and, if the judge releases the person, what conditions to impose. As COVID-19 continues to spread, judges have increasingly opted for home detention and electronic monitoring. This allows a person to stay out of jail, while imposing other constraints on the person’s liberty and movement.

However, home detention and electronic monitoring come at a steep price: \$11–17 per day, which can add up to *over \$500 per month*, as the [Baltimore Sun reported in August, 2020](#). These costs add up to even more as the Covid-19 pandemic causes delays and closures, meaning those charged with crimes will be in home detention for longer.

It doesn’t have to be this way. Effective January, 2021, Baltimore County eliminated the home monitoring fees. [Baltimore County Executive Johnny Olszewski explained](#) clearly why this decision was made: *“This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens...Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”* Additionally, the cost for eliminating the fees in the county (\$538,000 per year) was much lower than if those people were held in the detention center (more than \$3 million per year). Therefore, eliminating the fees or providing funding for those who need it may allow the state to put more money into other necessities.

Last year, Senate Bill 23 was passed which provided funding for home detention and electronic monitoring, but only for fiscal year 2022; while COVID-19 may have been the catalyst for this policy, the moral, social, and financial imperatives demand it’s continuation. Without funding, people who are safe to be released after arrest, but who cannot afford their own electronic monitoring, are forced to remain in a jail cell. No righteous or benevolent state could allow such a callous two-tiered justice system to exist.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 704**.

Thank you for your time, service, and consideration.

Sincerely,

Sarah Johnson
1 Merryman Court
Baltimore, MD 21210
Showing Up for Racial Justice Baltimore

SB704_Hettleman_FAV.pdf

Uploaded by: Shelly Hettleman

Position: FAV

SHELLY HETTLEMAN
Legislative District 11
Baltimore County

Judicial Proceedings Committee

Joint Committee on Children, Youth,
and Families

Joint Committee on the Chesapeake
and Atlantic Coastal Bays Critical Area



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Shelly.Hettleman@senate.state.md.us

The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB 704 – CONDITIONS OF PRETRIAL RELEASE –
HOME DETENTION MONITORING – ALTERATIONS AND EXTENSION

SB 704 seeks to continue a program the General Assembly created through legislation (HB 316) last year. Using federal funds, we enabled the Judiciary to be the pass-through entity through which federal funds are used to cover the costs of pre-trial home monitoring. While the bill's effective date was July, 2021, the program began in October and has been working well. This bill removes the sunset of that program (this summer), enables the continued use of the federal funds, and will reinstate a workgroup – required by last year's bill but never created - to consider long term solutions to these pre-trial challenges.

I commend the Judiciary for their ability to step up to the challenges of creating new procedures to implement this program. They have enabled low income defendants who qualify and who are represented by public defenders as well as private counsel to have easy, user-friendly access to the program. They are working with the private home monitoring agencies to meet federal funding requirements and have taken on the responsibilities associated with operating this program efficiently and effectively.

This bill will help to decriminalize poverty by removing unjust financial obligations from those who are presumed innocent, awaiting trial, and who are deemed unable to pay by the Office of the Public Defender. To reduce the number of people incarcerated and the reliance on cash bail for release, some defendants are released to home detention and are required to wear GPS monitoring devices.

Those charged with, but not convicted of, a crime should not bear the financial burden of their monitoring. This puts low-income defendants in an impossible situation. While they await trial - often with lengthy delays - home detention could likely mean they are unable to earn a wage. Requiring them to pay for their monitoring puts them in debt and forces them to choose between paying for essentials such as rent, childcare, groceries, and healthcare and paying to remain outside of jail. While two thirds of pretrial detention cases result in dropped charges or no conviction, if monitoring fees are not paid, the defendant is in violation of pretrial detention and could be jailed for failure to pay.

Some counties have begun to cover the costs on their own for pre-trial home monitoring. For example, at the beginning of 2021, Baltimore County eliminated home-monitoring fees charged to pre-trial and sentenced individuals. County Executive

Olszewski announced, “This is an issue of simple fairness. Individuals on home detention, most of whom are individuals not convicted and awaiting adjudication of non-violent crime charges, should not have to face additional financial burdens. Expensive home monitoring fees create unnecessary impediments, and the elimination of home monitoring fees will better allow these residents to support themselves and their families.”

SB 704 is an extension of an effort to end the wealth-based pretrial detention system that criminalizes poverty. It rectifies the unjust passing of these costs on to people who are presumed innocent and who are poor.. It would be highly unfortunate to allow a program that is working - and that has resources - to cease simply because we’ve allowed it to sunset. For these reasons, I ask the committee to pass SB 704. Thank you.

MOPD fav SB 704.pdf

Uploaded by: Todd Oppenheim

Position: FAV



PAUL DEWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 704– Criminal Procedure 5-201– Conditions of Pretrial Release- Home Detention Monitoring- Alterations and Extension

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 8, 2022

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on Senate Bill 704.

No one awaiting trial, presumed innocent, should be incarcerated based on their financial circumstances. Period. Maryland’s existing piecemeal pretrial home detention system, in actuality, is no system at all. Case in point, if the legislature does not take action as it did last year, individuals who cannot afford home detention will remain incarcerated before being convicted of any crime. Under the current system, many counties throughout Maryland depend on private companies to provide GPS tracking and monitoring services for individuals awaiting their court dates who are ordered by judges to be released with such restrictions. These services cost money. Additionally, some counties provide home detention services but charge fees. Simply put, if a person cannot afford the home detention fees, especially in the jurisdictions using private companies, that person cannot be released on home detention. Worse, if a person is released, and struggles to make home detention payments, that person can be rearrested for violating the conditions of your release. The legislature recognized the inherent inequities in this system and crafted a fix in 2021, which must be renewed and extended in Senate Bill 704 this year.

In 2017, the Maryland Court of Appeals promulgated landmark bail reform through the framework of its Rules of Court. The Rules, of course, carry the weight of laws in Maryland. Essentially, the Rules now disfavor the use of cash bail and guide judges towards using the “least onerous” conditions of release during bail review hearings. The Rule (4-216.1) says “preference should be given to additional conditions without financial terms.” The net effect has been the overall decline in the use of cash bail as a condition of release. Consequently, the OPD finds fewer individuals stuck in jail pretrial with unattainable bails. To be clear though, bail is still legal in Maryland- it’s just used less frequently.

Along with bail, pretrial supervision, stay away orders, curfews, and personal recognizance comes

Maryland Office of the Public Defender, Government Relations Division, 45 Calvert St, Suite 108, Annapolis MD 21401

For further information please contact Todd Oppenheim, Assistant Public Defender and subject matter expert, at todd.oppenheim@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

the possibility of release on home detention. Dorchester, Somerset, Wicomico, Worcester, Kent, Charles, Harford and Howard Counties along with Baltimore City allow pretrial home detention, but require fees. This means that a judge can order someone released either on private or public home monitoring (depending on the place), but a defendant would have to pay for it. Neither the companies nor the public option will permit the individual to be placed on home monitoring without the ability to pay, and if payment ceases, the individual is subject to re-arrest. The OPD views this as a bail system in disguise. Essentially, if a judge orders you to be released and you can afford it, you can get out. However, if you cannot, you stay in jail. Not only does this contradict the spirit of the Rules of Court and both the statewide and national movement against predatory cash bail systems, it's unconstitutional.

Thankfully, last year, the legislature, through this committee, enacted key legislation to provide funding for private home detention for indigent defendants when ordered for pretrial release with such by a judge. Though the bill was due to provide funding beginning in July of 2021, the money was unavailable until October of last year. Despite the delayed start, the impact has been tremendous. Pretrial home detention, when ordered by a judge, is now a viable option for anyone, regardless of their income throughout the state, as it should be. The funding has allowed people to keep their jobs, support their families and maintain some semblance of life while awaiting their cases, which more often than not don't result in incarceration when concluded.

SB 704 continues the successes of last year's stopgap fix to the aforementioned pretrial detention problems in several respects. First, it provides relief by offering funding to indigent individuals to pay either private home detention fees or requires local jurisdictions to waive or cover fees for public home monitoring programs. This is huge. Make no mistake about it, home detention is still a version of incarceration. An individual on home detention is not permitted to leave their assigned residence except for any pre-approved allowances like work, doctor's appointments, or court related activities. Every exception is programmed into a GPS device. Any violation is reported to the court. Many people on home detention are on "24/7 lockdown" with no exceptions. However, home detention is still preferable to being in jail. One can have some normalcy while on home detention. In these times, home monitoring can also be the difference between life and death as COVID-19 continues to affect our jails and prisons. Moreover, Marylanders have seen unprecedented delays in trials across the state, which could stretch out to beyond two years in older cases once courts fully open again in March. So, SB 704 should, first and foremost, be regarded as a humane response to excessive pretrial incarceration.

SB 704 is also an extremely important step for the legislature to take towards reworking the uneven pretrial system throughout the state. It's arguable that people arrested in jurisdictions like Kent County or Baltimore City (without free home detention) are subjected to Equal Protection violations because they are deprived of the same options for release available to individuals arrested in localities like Montgomery, St Mary's, Anne Arundel or Prince George's Counties where home detention is local and, most importantly, free. Providing funding begins to level the playing field between fee-based and free jurisdictions. It is also of great significance that OPD clients across the state that struggle with home detention costs tend to be people of color. Neither a person's place of arrest, financial circumstances, nor race should determine whether a person will be held in jail while awaiting their court date.

In conclusion, it only makes sense to continue the successful efforts of this legislature and provide

funding to pay for pretrial home detention for those who have been granted it, but cannot afford it across the state.

For these reasons, the Maryland Office of the Public Defender respectfully urges a favorable report on Senate Bill 704.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Todd Oppenheim, Assistant Public Defender and subject matter expert, todd.oppenheim@maryland.gov.

SB704_FAV_UlondaGregg.pdf

Uploaded by: Ulonda Gregg

Position: FAV



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: Ulonda Gregg

DATE: March 9, 2022

My name is Ulonda Gregg and I support(s) 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.

I am currently on pretrial for a case that has been delayed for quite some time. I live in Baltimore City where electronic monitoring via home detention is not covered by the state or local jurisdiction. ASAP home detention has charged me \$500 per month since October of last year and I have only managed to pay it by leaning on my aging father and other relatives who are in the same financial straits that I am in. Last year, when I was placed on pretrial, I spent the majority of my remaining funding on retaining a lawyer to represent my case and when I had informed him of my financial situation, he informed me of the court's new pretrial payment program that must have just gone into effect in October. After seeing a flyer about it from JOTF, my lawyer gave me Mr. Dews' number and we navigated the process together.

It was rather efficient. Mr. Dews sent me the public defender qualification paperwork, I signed it, and then we went to the Wabash Court. There, we handed the documents into the commissioner's office and were told to wait for a public defender approval letter. Once I received it in the mail, we took a picture of it and sent it to ASAP Home Detention. Once they sent back confirmation, I no longer had to worry about that hideous \$500 expense. The program is good *and* it works for people from lower-income communities. PLEASE do not let this program die for systemic, logistical or political reasons. The Maryland Judiciary has really struck gold with this program and I am truly grateful to the bill sponsors for fighting to extend it. I urge a favorable report on SB704.

sb704.pdf

Uploaded by: Sara Elalamy

Position: UNF

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