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SUPPORT SB23 / HB316 Eliminate Costly Home Detention Monitoring Fees in Pretrial Decriminalize Poverty & Race: Require indigency determinations for pretrial defendants on GPS monitoring

THE CHALLENGE

- Since the start of the Covid-19 pandemic, courts have been urged to depopulate jails- especially for pretrial defendants- to reduce the spread of the virus.
- GPS monitoring via state and local home detention programs has become the primary method of depopulation with many defendants paying monitoring costs directly to private home detention monitoring agencies (PHDMAs).
- Fees for PHDMAs can range from \$10 to \$20 per day (\$300-\$600 monthly).
- For pretrial defendants, monitoring fees last only until trial; however, due to the pandemic, courts have been backlogged due to closures and postponements, leading to loftier fees for defendants.
- If a defendant defaults on payment, they can face incarceration and the payments levied upon them as debt.
- Although electronic monitoring (pretrial release option) is aimed at helping defendants avoid jail time, it is available only to those who can afford to pay for it, forcing those too poor to pay to remain in jail.
- Maryland has worked hard to usher in bail reform. However, the shift of costs to privatized monitoring creates a similar system that allows for two criminal justice systems - one for the rich, one for the poor.

CURRENT POLICY

- Under § 5-201 of the Criminal Procedure Article, the court may require, as a condition of a defendant's pretrial release, that the defendant be monitored by a private home detention monitoring agency.
- § 5-201 also states that a defendant placed in private home detention *must pay* the agency's monitoring fee directly to the private home detention monitoring agency.
- The cost of home detention (\$75/week) is intended to reimburse the Department of Public Safety and Correctional Services for home monitoring costs and equipment.
- Fees for electronic monitoring include a daily rental fee - typically around \$8 for a tracking device and often twice as much for an alcohol monitoring device – the cost of a landline phone for the systems to work, and an installation fee.
- Prior to the elimination of fees in the County, the Baltimore County Corrections website outlined the following fees for participation in the Home Detention program: a one-time nonrefundable fee of \$34 (\$25 of which is for a urine test and \$9 for an ankle bracelet), and a \$75 weekly fee (\$60 of which is paid towards the program and \$15 used as a security deposit to be returned to the inmate at the end of the program).
- Unpaid fees may be sent to the Central Collection Unit. At the time of payment arrangement, an initial down payment is required and a 17% surcharge is added to the offenders' debt.

THE PROPOSED SOLUTION

- Require indigency determinations, similar to what is provided for those on parole and probation, to require the state or local jurisdictions to cover the costs of GPS monitoring, including the cost of the monitor and monitoring fee for indigent defendants being held in pretrial detention.

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