

November 9, 2022

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*Sent via email to mmeis@illinoiscourts.gov*

Cara LeFevour Smith  
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*Sent via email to clefevoursmith@illinoiscourts.gov*

**Re: Opposition to increased use of electronic monitoring in Illinois**

Dear Administrative Office of the Illinois Courts:

As researchers and legal and policy experts that have supported advocacy for pretrial justice reforms, we are elated with the passage of the Pretrial Fairness Act and the protections it secures for thousands of Illinoisans. It is critical that the end of money bond and decrease of pretrial jailing are not responded to with an increase in other forms of pretrial injustices.

Our organizations have a particular interest in the issue of electronic monitoring (EM). Electronic monitoring, when accompanied by house arrest (as is typical) is the most punitive form of pretrial release available to the courts. Our work has borne this out. We have worked with individuals on pretrial EM in Illinois and other states. We have supported people who have lost access to their children, been fired from their jobs, and been removed from their housing solely because they could not secure movement to attend an interview, go to a hospital or sign a lease. We have handled messages of distress at all times of the night and day from individuals on the monitor who have been unable to access food, medical care or respond to a family emergency because the stringent conditions of electronic monitoring held them captive in their house. In perhaps the most extreme of cases, we worked with an expectant father who was unable to attend the birth of his child because he was unable to file a request for movement at the precise time the child would be born, an obviously impossible requirement. The child arrived early, and he was unable to leave the house in time.

These losses and restrictions are imposed without justification, as a thorough review of available research has found [little to no evidence](#) that electronic monitoring improves key pretrial outcomes like court appearance or community safety. Instead, it is found to undermine pretrial success by increasing technical violations and pretrial incarceration for people who

would otherwise likely succeed on pretrial release without monitoring. A wealth of [evidence](#) demonstrates that the widely used forms of EM technology are often hypersensitive and unreliable, triggering [false alerts](#) that are used to justify [jailing individuals](#) without due process for unsubstantiated alleged violations. This ultimately worsens mass incarceration and amplifies existing [racial disparities](#). For these reasons, courts must move away from pretrial EM.

To our knowledge, the Pretrial Fairness Act is the first legislation in the US that guarantees some basic rights for individuals on pretrial electronic monitoring, and thousands of people have already benefited as a result—without compromising community safety. The spirit of the Pretrial Fairness Act focuses on reducing pretrial jailing, acknowledging that house arrest with electronic monitoring replicates many of the harms of incarceration in brick and mortar jails. When people are unable to take care of themselves or pursue positive opportunities because of electronic monitoring, their lives and families fall apart and our communities suffer. By guaranteeing people's right to movement to carry out essential activities and mandating that the court regularly reconsider the imposition of EM, the Pretrial Fairness Act is an important first step in moving away from treating pretrial release conditions as forms of punishment.

Moving jails into people's homes through extending the use of electronic monitoring would undermine the positive impacts of the Pretrial Fairness Act. While the legislation does not address the full range of pretrial challenges, it constitutes an enormous advance. We are concerned that certain decision-makers will push back against this progress either by expanding use of electronic monitoring or falling short of implementing the mandates of the Act.

Therefore, we encourage you to promote the use of non-punitive programs as part of pretrial release and refrain from expanding the use of pretrial electronic monitoring through Illinois' new Office of Statewide Pretrial Services. If EM is used, we implore you to ensure that the conditions of EM maximize movement and participation in family and community life, rather than converting homes into jail cells.

We would be happy to discuss this with you further. Please feel free to contact us at: [james@mediajustice.org](mailto:james@mediajustice.org).

Sincerely,

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