

Good Afternoon Chairman Manning, Vice Chairman Rezabek, and Ranking Member Celebrezze. Thank you for the opportunity to speak to you and your fellow members of the Ohio House Criminal Justice Committee. I would like to introduce myself; My name is Anthony Sylvester, I am a member of the Ohio Professional Bail Association, and I have been a professional bail bondsman for over 15 years in the state of Ohio. During that time I have posted 10,000's of bonds for criminal defendants all over the state of Ohio. I have personally tracked and returned 100's of wayward fugitives back to justice after they have absconded from their appointed appearance dates.

One of the methods of release that house bill 439 uses to replace bail is electronic monitoring also known as "house arrest". The underlying premise is that by affixing an ankle monitor that tracks the defendant 24 hours a day it will ensure compliance as well as keeping a defendant from reoffending while on pretrial release. This assumption that electronic house arrest can replace bail as a preferred method of release is problematic for 3 key reasons:

1. Cost
2. Effectiveness
3. Constitutionality

According to a report published by the Summit County Court of Common Pleas, the average length of time that a case remained open was 75 days. Assuming this to be a somewhat

Testimony Substitute House Bill 439

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accurate number it can be extrapolated that the cost of electronic monitoring would in most cases outstrip the cost of bail. The average indigent per unit price charged for GPS monitoring equipment is approximately \$10 a day. This assumes only the cost of rental of equipment and monitoring (If the court would decide to become the vendor, the cost to the court significantly increases). Using that number the base price to the defendant is \$750 plus installation/application fees. This puts the cost well over the cost of the average bail in most cases. Also note that if not found indigent the cost of the monitoring generally increases. Additionally, the fact that if the monitoring is unpaid it is considered a violation and the unit is removed which leads to subsequent reincarceration. This fact has been completely overlooked in the formation of this bill. Every piece of this puzzle will create additional financial burdens. This applies Not only to the defendant but ultimately to each individual court as they are forced to create systems and personal to handle the demands this unfunded mandate would place on them.

The second point that must be addressed would be, how effective is house arrest in accomplishing its state goal? The simple truth is that the monitors are only as good as the technology and personal behind it. While it is true that the GPS ankle monitoring does keep tabs on defendants 24 hours a day, the court is generally only open from 8am to 4pm. Violations that take place in the evenings or on the weekends will not be seen by court staff until the next business

day. The only way to avoid this would be to create a dedicated 24hr staff that fielded and processed violation alerts as the monitoring company receives them (this would include a judge to sign off on the violations so that a warrant could be issued). Add to this the question of, who exactly is going to go and return the defendants after they are found in violation of their release? Our entire American model of criminal justice is based on the punishment model of deterrence. The main underpinning of that model is that in order for deterrence to be effective, punishment must be both assured and swift. Once one or both of those elements are lost, justice delayed is justice denied. While a GPS device can in most cases keep tabs on a defendant, perhaps too well (see point 3) it can neither guarantee their appearance nor their timely capture if they choose to cut off the device and flee. As a result you end up with a giant bureaucracy that is both cost prohibitive and less effective than the current system.

The third and final point that must be addressed is the unintended consequences of placing someone on 24 GPS monitoring. The device does more than merely display the defendant's current location, it catalogs and stores all the individual's movements for the entire duration of their stay in the program. In 2015 the U.S. supreme court decided in, *Torrey Dale Grady v. North Carolina* that GPS monitoring constitutes a search under the fourth amendment. This device could be used to gather information about a person's, race, religion or gender, sexual orientation, and a host of other factors far outside of the scope of the case they are accused of. This could easily be construed as a violation of the defendant's privacy and freedom to practice their religion

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in private without government interference. In addition data could be used to implicate the defendant in new crimes which might be ruled as a form of self incrimination. Putting individuals presumed innocent on A GPS monitor as standard procedure with out some justification by a showing of enhanced dangerousness could become a civil rights violation of epic proportions. None of these problems exist in the current system, which costs a fraction of the price and more effective. These are not the only challenges that Bill 439 would create, but they are certainly the most pressing from a practical, financial and ethical standpoint.

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