



Electronic Monitoring Fees

A 50-State Survey of the Costs Assessed
to People on E-Supervision

Fines & Fees
Justice Center

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About Us

The **Fines and Fees Justice Center (FFJC)** is catalyzing a movement to eliminate the fines and fees that distort justice. Our goal is to create a justice system that treats individuals fairly, ensures public safety and community prosperity, and is funded equitably. We work together with affected communities and justice system stakeholders to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices. Visit ffjc.us and follow [@FinesandFeesJC](https://twitter.com/FinesandFeesJC) on Twitter to get the latest updates on local, state and national fines and fees reforms.

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The Problem of Electronic Monitoring Fees

Although there is a long list of fees in the criminal legal system that can wreak havoc on individuals' lives, fees imposed for electronic monitoring (EM) can be among the most costly, least transparent, and most complicated to quantify.

For the purposes of this report, EM is defined as any technology used to track, monitor, or limit an individual's physical movement or alcohol consumption. It, and the costs associated with it, may be imposed as a condition of probation, parole, diversion, or some other community-based sentence or as a condition of pretrial release for those who have not been found guilty of anything. Its use is widespread in both the juvenile and adult criminal court systems. In most states, the individuals on EM are required to pay—daily, weekly, monthly, or flat fees—in order to be tracked, monitored, and have their liberty curtailed. Failure to pay such fees can lead to extended periods of supervision, additional fees, or even jail.

EM fees are often an additional cost beyond other supervision fees, as well as any other case-related fines, fees, and costs that are imposed. Because people of color and those from lower-income communities are disproportionately drawn into the system and tend to spend longer periods of time under supervision,¹ EM fees and the consequences stemming from them impact these communities at disproportionate rates.² Moreover, EM is often administered by private companies seeking to make a profit, which further adds to its costs. As the recurring costs add up, those on electronic monitoring can be responsible for an astronomical amount of money. The seeming lack of oversight on who can impose fees, and general lack of limits on the amounts, can also be strikingly nonchalant in a system that is supposed to operate on values of fairness and justice. For these reasons, the Fines

and Fees Justice Center has developed this report to shed some light on the murky world of electronic monitoring fees.

From 2005 to 2015, the number of individuals on electronic monitors increased by nearly 140 percent, from 53,000 to over 125,000.³ Since then, this number is believed to have dramatically increased, especially during the COVID-19 pandemic when more people were placed on monitors to decrease jail and prison populations.⁴

This report will primarily focus on the ways state, local, and municipal governments or courts impose fees on people placed on these devices. It specifically examines the quagmire of how and when states are charging, or allowing others to charge, EM fees to individuals ordered into these programs. We do this by focusing our examination on legislative authorization and statewide court rules that authorize EM fees. We examined statutes and rules from all 50 states and the District of Columbia to determine whether their codes authorize fees for electronic monitoring at any point in the criminal legal system and to what extent.⁵ We explore statutes related to both pretrial release and post-sentencing supervision, the fee amounts authorized, consequences for nonpayment and, to a limited extent, electronic monitoring fees at the local level.

Common Electronic Monitoring Devices

There are varying types of technology used in EM, and each has a different and distinct use. Some of the most common devices include:

- » **Global Positioning System (GPS) Monitors**, which transmit specific geographical coordinates of the wearer on a continuous basis, enabling round-the-clock location monitoring. Depending on the jurisdiction or company, GPS monitoring can be through a strap-on device, like a watch or ankle monitor, or through a smartphone app.
- » **Radio Frequency (RF) Monitors**, which inform the monitoring organization about the general whereabouts of the wearer in relation to a home base unit. RF is similar to an invisible fence in that it alerts the monitoring agency when a person isn't at the location, but does not indicate where the person may be.
- » **Secure Continuous Remote Alcohol Monitoring (SCRAM) Monitors**, which tests the wearer's sweat for alcohol content, reporting it to the monitoring organization, and which can include location monitoring if requested.
- » **Breathalyzer Monitors**, which test a person while at home for alcohol content.
- » Similarly, an **Ignition Interlock Device** is a machine that is installed in a person's vehicle so that the engine won't start if it detects alcohol.

Electronic Monitoring Fee Authorizations

Like many processes in the legal system, how EM programs operate and under what authority varies widely from state to state and even among counties within states. EM programs can be run by courts, law enforcement agencies, state Departments of Corrections, or parole and probation agencies, or managed through a contract with private, for-profit monitoring companies. In many states, these private vendors are allowed to set their own rates that are charged directly against individuals and add additional administrative fees and interest for missed payment deadlines. Private companies are also responsible for monitoring compliance with the program and reporting violations to the court. Infractions while on a monitor may increase a person's time under EM supervision and can increase their liability for EM costs.

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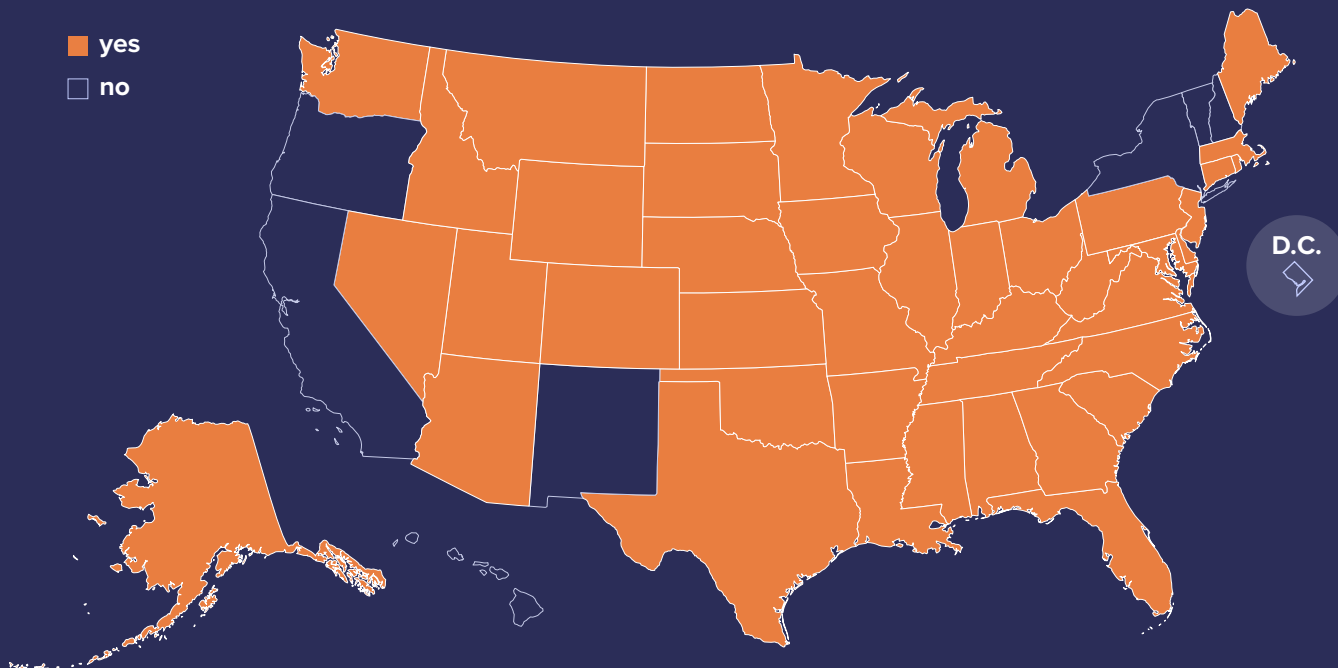
In the pretrial stage, EM can be imposed as a condition of release through the courts or a bail bond agreement as a defendant awaits their trial. EM can also be imposed at sentencing as a condition of probation, or after being released from jail or prison as a condition of parole or community monitoring. EM has also been built into home detention programs, work release programs, drug and alcohol treatment programs, diversion, and protective orders.

The costs related to any of these are often assessed directly to the person ordered to participate in the program, and the participant may have to pay installation fees on top of regularly recurring program rates. Some EM providers even mandate participants pay for the first couple of weeks before they can even enter an EM program.⁶ Beyond direct EM program fees, many EM monitoring systems carry prerequisite financial requirements before an individual can be eligible for the program. For example, some programs explicitly require the person to install or maintain a landline telephone or have a working and consistent cell phone along with stable access to electricity.⁷ As a result, working families or those living in poverty who struggle to pay basic utilities may find themselves denied access to EM as an alternative to incarceration simply because they cannot afford the basic requirements to enable the technology.

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States That Authorize Electronic Monitoring Fees



43 states have statutes or rules explicitly authorizing fees for electronic monitoring.

Beyond simply authorizing the use of electronic monitoring, these states’ statutes include language that authorizes fees for EM as a condition of a person’s pretrial and/or post-sentencing release.

» **29 states** expressly authorize EM fees for individuals both during the pre-trial and post-sentencing phases.⁸

» **New Jersey** is the only state that expressly authorizes EM fees at the pretrial stage but lacks any statute authorizing EM fees at the post-sentencing phase.

» **13 states** expressly authorize EM fees during the post-sentencing phase but not during the pretrial phase.⁹

Only 2 states expressly prohibit the use of EM fees, at least at some stages.¹⁰

» In 2022, **California** passed legislation expressly prohibiting the use of EM fees.¹¹

» **Rhode Island** expressly prohibits EM fees for those not yet convicted of an offense,¹² but still allows it as a condition of a sentence.

6 states & the District of Columbia lack statutory authority for EM fees at any point during the criminal legal process, but this is not necessarily preventing EM fees.

- » The **District of Columbia, Hawaii, New Hampshire, New Mexico, New York, Oregon,** and **Vermont** lack explicit statutory authority to impose EM fees at any stage. This, however, does not mean that some other authorization may not exist.¹³
- » In **New York**, for example, although there is no explicit statutory authorization for EM fees, case law holds that an implicit authorization exists, absent legislation to the contrary.¹⁴ EM fees, both probation location monitoring and SCRAM devices, are being charged in some New York counties.¹⁵
- » **Oregon** amended its statute to eliminate language that had previously permitted charging fees related to EM at any stage. Simply removing authorizing

language, however, rather than prohibiting the practice, may not be enough to end the practice.¹⁶ As of July 14, 2022, FFJC identified at least one county in Oregon that reports it still collects EM fees.¹⁷ Similarly, FFJC found that in **New Hampshire**, some counties and the state’s Department of Corrections acknowledge charging EM fees.¹⁸

- » *At the pretrial level*, there was no explicit statutory or rule-based authorization for EM fees in **20 states** or the **District of Columbia**.¹⁹ *At the post-sentencing stage*, the codes lacked explicit authorization for EM fees in **eight states** and the **District of Columbia**.²⁰ Again, this does not necessarily mean that such fees are not assessed in those states; it merely means we were unable to identify legislative authorization for it.

At least 26 states have statutes or rules that impose fees to cover the costs of an EM program without specifying an amount.

Some states simply authorize a “reasonable fee,”²¹ which ultimately allows the EM provider—whether a governmental agency or private for-profit company—to set any fee it deems appropriate, with little or no oversight to check such decisions. Similarly, other statutes require only that EM monitoring fees be

“associated with the cost of monitoring,”²² which is wholly undefined and could conceivably include the costs of the devices, supervision fees, administrative fees, staff salaries, overhead, and a host of other amorphous and unregulated expenses.

23 states do not statutorily require that someone’s ability to pay be considered when assessing EM fees.

Illinois, Kentucky, Missouri & Nevada are the only four states with statutes that expressly mandate consideration of a person’s ability to pay in *both* the pretrial and post-sentencing stage when assessing EM fees.

Broad language in state statutes and rules often gives local governments considerable latitude in determining how much to charge. From a limited review of 31 local jurisdictions with EM programs, fees ranged from less than one dollar a day up to \$40 *per day*. Within states, there are also wide variabilities for the daily cost of EM. In Minnesota, for example, Ramsey County does not charge participants a fee related to its electronic home monitoring program, however, Steele County charges participants \$10 to \$11 per day, and Cass County charges participants \$20 per day.²³ Fees can also differ based on the type of monitor a participant is mandated to wear. For example, in Chippewa County, Wisconsin, an individual is charged \$6 per day more for a GPS monitor than for a SCRAM device; the county charges \$20 per day for regular EM and \$26 per day for EM and alcohol monitoring.²⁴ Some jurisdictions include an installation fee that participants must pay to enter the program, and such fees we identified ranged from \$25 to \$250.²⁵ A few counties use a sliding scale based on the individual’s income to determine a participant’s fees.²⁶ Still other localities require prepayment of the cost of EM. For example, the Scott County Sheriff’s Office in Iowa and Stutsman County in North Dakota require participants to pay the full cost of EM for the term of their sentence upfront at a rate of \$10 per day and \$13 per day, respectively.²⁷

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Most troubling, we found local jurisdictions in Oregon and California—where the statutory authority to charge EM fees had been repealed—that still charge EM fees. Jackson County, Oregon, still publicly stated on its website that it charges \$30 per day as a post-sentencing condition of home detention,²⁸ despite legislators removing language authorizing such costs from the state’s code. In California, while lawmakers

changed the home detention statute in 2020 to say that local government “shall not impose a program administrative fee” for EM supervision, the language in later parts of the statute left some ambiguity as to whether private companies could continue to do so. This ambiguity was clarified by new legislation in 2022 making it clear private companies could not impose administrative or installation fees either.²⁹ Nonetheless, as of August 9 2022, FFJC found two counties, Fresno County and Los Angeles County, that continue to publicize on their website that the private monitoring company they contract with will charge participants EM fees, based on a sliding scale.³⁰ California and Oregon are prime examples of the need to carefully draft legislation that repeals fees. In both states, when statutory law does not authorize fees on EM wearers, contracts with private monitoring companies may still cause a financial burden on individuals.

Obstacles to Determining the Extent of EM Fees

One of the difficulties in understanding how electronic monitoring fees are imposed and collected is the great lack of transparency. Most states that allow for EM fees do not set a specific fee amount in the statute. The intermingling of public and private entities that are allowed to charge these fees makes it difficult to understand who sets the price, who enforces it, and what it actually means in terms of financial obligations for individuals in EM programs. Additionally, the duration of EM programs is far from uniform, and costs are typically dependent on how long one is in the program. Some programs assess their fees daily, while others assess their fees weekly or monthly. As a result, how and when EM fees are imposed and how much can be assessed varies significantly among and within states. Therefore, it is impossible to calculate an average daily fee imposed across the country by looking at what is authorized by state statutes and rules.

Shifting the Cost Burden

Even though EM is seen as an alternative to incarceration, it has also been promoted as a way to reduce government costs by shifting the bill from the state to the individual. One EM services provider advertises on its website, “Since the cost is paid by the offender, West Virginia saves approximately \$25,000 per year per offender” by using their services.³¹ In Fairfax County, VA, the Sheriff’s Office reported in 2019 that its work-release program, which uses EM, saved the county over \$600,000 in incarceration costs. Although saving over half a million dollars, the county imposed EM fees on individuals in the program, and collected over \$60,000 from them, rather than supporting the program through the county’s savings.³²

The vast majority of people arrested and prosecuted are those least likely to be able to afford these fees. Adults living in poverty are three times more likely to be arrested than those who are not.

The vast majority of people arrested and prosecuted are those least likely to be able to afford these fees. Adults living in poverty are three times more likely to be arrested than those who are not. Individuals with incomes below 150% of the federal poverty level are 15 times more likely to be charged with a felony.³³ People on probation are also typically low-income individuals. Sixty-six percent of those on probation earn less than \$20,000 a year, and 38 percent earn less than \$10,000 a year.³⁴ EM fees can account for large portions of an individual’s income, reducing their ability to meet basic family needs and challenging their overall financial health.³⁵ Electronic monitoring programs exist to benefit the whole community by limiting unnecessary incarceration and ostensibly helping to provide an additional level of community supervision on those the court deems need it. Shifting the responsibility of funding programs that benefit the entire community primarily to low-income individuals involved in the system is an inequitable form of taxation.

As part of this shift of costs to individuals, many states and municipalities have made paying electronic monitoring fees a required condition of a person’s pretrial or post-sentence release.³⁶ This means that failure to comply with any of the EM program’s rules—including cost requirements—could lead to expulsion from the program, incarceration, or other sanctions. While EM costs are sometimes part of a general pretrial release or probationary supervision fee, more commonly, they are an additional cost. For those without the means to pay hundreds or even tens of thousands of dollars for electronic monitoring, this shifting of costs to individuals means many may face choices between necessities for their families, like food and rent, or paying EM costs to avoid incarceration or other prolonged involvement with the criminal legal system.³⁷

The Real-World Costs of Electronic Monitoring

In the pretrial stage of a case, EM devices are used for people who have not been convicted of a crime and are awaiting trial; they have not been found guilty of any offense. Nationally, a felony case takes an average of 256 days (8.5 months) from arrest to disposition and a misdemeanor case takes an average of 193 days (6.4 months).³⁸ Defendants required to be on monitors during this time can be responsible for paying an astronomical amount of money by the time their case is adjudicated. For example, Emass, a private company that operated a pretrial electronic monitoring program in St. Louis, MO, charged defendants up to \$10 per day.³⁹ At this rate, a defendant who has been charged with a misdemeanor and must be on EM for six months awaiting trial would have to pay approximately \$2,000 without ever being convicted of a crime. Unlike the bail payment itself, any EM cost a person pays while awaiting trial is not refundable, even if the person is acquitted or the charges are dismissed.⁴⁰ When EM is used for youth in many states’ juvenile court systems, the youth or their parents are often held financially accountable for the fees that accrue while the young person is monitored.

Fees for EM programs can cause difficulties in meeting basic day-to-day needs and can cause stress for those

facing difficulties meeting payment deadlines. In a self-reported study that illustrates the experience of probationers with supervision fees, many of those interviewed felt their probation officers focused the majority of their time discussing monetary sanctions owed⁴¹ rather than other topics that may help with their reintegration, such as continuing their education, job training or counseling. In 2021, researchers reported that data from EM agencies in 30 states revealed monitoring device fees ranging from \$2 to \$20 per day plus one-time upfront installation fees ranging from \$25 to \$300.⁴² From our statutory analysis, FFJC found that the few states that set rates by statute were within similar ranges: from about \$1 to \$15 per day for EM fees. However, few states have statutes that provide specific dollar amounts. The vast majority of state statutes authorizing EM fees provide little or no guidance on the fee figure.

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Beyond the shift in cost to individuals, researchers have found there is little clear evidence that EM significantly impacts public safety or recidivism.⁴³ One review of 18 studies on the effectiveness of Electronic Monitoring in reducing recidivism demonstrates the complexity of how EM is implemented. The authors of this study found that EM has no statistically distinguishable effect on recidivism rates, that problems with technology and program design can negatively impact an EM program's effectiveness, and that although active monitoring is cheaper than a prison sentence it is a lot more expensive than traditional supervision.⁴⁴ Without compelling evidence that placing a person on an electronic monitoring device creates safer communities, it is cruel to require individuals and their loved ones to bear such an expensive financial burden.

A review of EM contracts and policies uncovered many that require people to be subjected to random checks at their place of employment and gain approval from their supervising agent to go on a job interview, accept a job offer, or alter their schedule to meet an employer's needs.

Many advocates have also raised significant concerns about the restrictiveness and invasiveness of EM, the significant data and privacy concern it creates for the individual and anyone around them, and the lack of clarity and transparency with how EM programs are managed and enforced.⁴⁵ These restrictions on liberty, free association, and expression are real concerns inherent in any EM program but are in large part beyond the scope of this report.

These attendant concerns, however, can have a real economic impact on individuals and negatively impact their ability to pay the fees associated with EM. Being on a monitor can thwart a person's employment opportunities. For example, a review of EM contracts and policies uncovered many that require people to be subjected to random checks at their place of employment and gain approval from their supervising agent to go on a job interview, accept a job offer, or alter their schedule to meet an employer's needs.⁴⁶ These conditions can make it quite difficult for someone to find or maintain employment and be successful in their reentry process.

The disproportionate use of EMs on people of color also creates additional economic intrusion into communities that are already over-policed because of racially biased policies. For example, in Cook County, Illinois, "Black people comprise 24 percent of the population and makeup 67 percent of the people wearing monitors."⁴⁷ Less than 300 miles away in Wayne County, Michigan, Black people are twice as likely as white people to be under electronic monitoring.⁴⁸ Black people are overrepresented in every aspect of the criminal legal system, including electronic monitoring.⁴⁹ EM fees thus fall disproportionately on people of color.

The overlap between communities of color and low-income communities⁵⁰ means that people of color are also more likely to be unable to afford to pay these fees, which results in further financial and carceral punishment.

Fee Collection and Allocation

Many state statutes and rules that impose EM fees often lack language as to who is responsible for the fee collection or where EM fees are to be allocated. In other states, however, statutes specifically place responsibility for collection on the courts, program providers, local law enforcement agencies, probation departments, or the state's Department of Correction.⁵¹ After the fees are collected, most states specify that the money should be directed into a fund that's used for EM or supervision.⁵² However, three states—Florida, Minnesota, and Rhode Island—use fees collected from EM programs to raise revenue for their state general fund.⁵³ Still other states allow local jurisdictions to retain the funds.⁵⁴ Finally, other statutes expressly allow for fees and revenue to be subject to the contracts governments establish with private monitoring firms,⁵⁵ thereby allowing for private profit generation with little or no oversight beyond those established by general procurement practices, which may or may not be informed by public policy goals beyond the desire to keep government costs down. Such a system can be rife with predatory practices, given that monitoring companies have a financial incentive to prolong supervision or implement stricter rules to increase the likelihood of receiving sanctions for violations.⁵⁶

Failure to Pay EM Fees

The Supreme Court of the United States has held that no one may be imprisoned for failure to pay court-imposed costs, unless the court finds that the failure to pay was “willful” or, in other words, unless the court determines the person has the capacity to pay and simply refuses to do so.⁵⁷ Despite this, most states allow for sanctions against people on EM who fail to pay related fees, including incarceration, which is particularly problematic given that many courts often fail to conduct effective ability to pay determinations.⁵⁸ In the pretrial stage, paying EM fees

is often a condition of pretrial release for defendants, whether on bond or other release obligations. Failure to meet payment deadlines or comply with all pretrial supervision rules can result in defendants being taken into custody.⁵⁹ Idaho is the only state with a statute directly specifying that a person cannot be denied a chance of pretrial release due to their inability to pay EM fees.⁶⁰

At the back end of the system, people may be placed in EM programs as a condition of a sentence that includes probation, parole, or some other form of community release. When fees are imposed for EM, failure to pay can lead to revocation of probation, parole, or release, either because the fees themselves are a condition of the sentence or because failure to pay leads to noncompliance with the court-ordered EM program. When success or failure on probation or parole is predicated on the ability to pay a fee, we have a justice system that effectively reinforces economic and social inequity and conditions liberty, not on behavior, but on finances. Ultimately, those with limited financial means can be incarcerated while those with resources can pay to go free.

Methodology and Limitation of the Findings

To develop this report, FFJC's research staff conducted an extensive search of the criminal, traffic, and juvenile codes in all 50 states and the District of Columbia, looking both for statutes that authorize the use of electronic monitoring and whether statutes explicitly authorize the imposition of EM fees. We used statutory databases (Westlaw and Lexus/Nexus) and publicly published online state codes. Where statutes indicated imposition of EM fees were subject to decisions on the county or municipal level, we conducted further research to find examples of how that played out, at least in one locality, to give some practical context. We then analyzed and categorized the statutes and compared authorization language to compile this report on the scope of how states impose EM fees.

Although our research was thorough, we cannot claim it to be exhaustive. Identifying authorization for EM fees posed some difficulties because statutes and rules use a wide variety of terminology when referring to electronic monitoring. For example, while some states use electronic monitoring to encompass the varying types of monitoring available, others refer to specific kinds of EM only, such as GPS devices, location devices, ankle monitors, and breathalyzer monitors. Still, other statutes use language that incorporates EM into other types of supervision, making it harder to disentangle from general probation or parole supervision fees. The section within a state's code where an EM authorization resides can also vary widely. For example, some states have overarching laws that discuss EM for pretrial release and post-sentencing supervision together. In contrast, others explicitly separate the two stages, providing differing authority for each, often in different sections of the code. Some statutes specify EM fees for youth accused of

juvenile offenses, for adults prosecuted in criminal court, or as a sanction for specific categories of offenses. EM authorizations can be part of the criminal code, criminal rules of procedure, and traffic, juvenile, and correctional codes, among others. As such, when our research did not uncover specific authorization, we cannot be one hundred percent certain that authorization to impose fees does not exist. Such authorization could exist in unexpected portions of a code, or authorization could come from non-statewide sources, such as local rules, ordinances, or case law, a full examination of which was simply beyond the scope of this report. However, the challenge in deciphering these authorities itself sheds light on the scope of the problem.

Additionally, the vague and broad language states use with respect to EM fees continued to complicate the classification process and the analysis of how much can be assessed against a person under EM supervision. This vagueness leaves room for interpretation. Some jurisdictions may read statutes to provide the authorization to impose EM fees while others may not. Further still, some states explicitly authorize the use of EM while staying silent on whether fees may be imposed. This additional level of imprecision can allow EM providers to determine their own fees and impose additional costs, timelines, and compliance metrics surrounding electronic monitoring, adding to the financial burden of individuals under EM supervision. Ultimately, this endeavor revealed a world of electronic monitoring fees that is difficult to identify, characterize, and quantify. It is our hope that this report is the first step in shedding light on this murky financial puzzle.

Electronic Monitoring Appendices

Electronic monitoring fees are imposed in almost every state in the United States. Appendix A outlines the statutory authorities FFJC's research team identified that explicitly authorize the imposition of EM fees by courts or agencies. The fees in the statutes listed here are almost entirely separate and apart from fees for general pretrial services fees or parole and probation supervision fees, thereby creating an additional cost for those ordered into these programs. In addition, supplemental information is provided for states that may authorize EM fees for specific categories of offenses and highlight states that have removed authorization from their statutes.

Two additional appendices are included to identify how EM fees are imposed in practice at the local level for the pretrial and post-sentencing stages. The fee authorization chart shows how authorization varies widely from county to county. With over 3,000 counties in the United States,⁶¹ we could not investigate them all for this report. Even in this small sample, however, county-level pricing varies greatly. These charts are not meant to be exhaustive but are meant to provide a glimpse of how EM fees assessments differ greatly from state to state and county to county. Counties included in the charts were chosen because local jurisdiction websites explicitly identified these costs.

Appendix A

Electronic Monitoring Fee Authorization by Statutes and Rule

STATE	PRETRIAL EM FEE	POST-SENTENCING EM FEE
Alabama	Fee Authorized. Ala. Code § 15-20A-20	Fee Authorized. Ala. Code by § 15-20A-20
Alaska	None Identified in Statute.	Fee Authorized. Alaska Stat. Ann. § 33.30.065
Arizona	None Identified in Statute.*	Fee Authorized. Ariz. Rev. Stat. Ann. § 41-1604.13 Fee Authorized with Certain (Sex) Offenses. Ariz. Rev. Stat. Ann. § 13-902
Arkansas	Fee Authorized with Certain Offenses (in Drug Court). Ark. Code Ann. § 16-98-304	Fee Authorized with Certain (Sex) Offenses. Ark. Code Ann. § 12-12-923 Fee Authorized with Certain Offenses (in Drug Court). Ark. Code Ann. § 16-98-304
California	Cal. Penal § 1208.2 Expressly prohibited by statute.	Cal. Penal § 1208.2 Expressly prohibited by statute.
Colorado	None Identified in Statute.	Fee Authorized. Colo. Rev Stat. Ann. § 18-1.3-106
Connecticut	Fee Authorized with Certain (DV) Offenses. Conn. Gen. Stat. Ann. § 46b-38c	Fee Authorized. Conn. Gen. Stat. Ann. Sec. 53a-30
District of Columbia	None Identified in Statute.	None Identified in Statute.
Delaware	None Identified in Statute.	Fee Authorized. Del. Code Ann § 4332 Fee Authorized with Certain (Sex) Offenses. Del. Code Ann TI 11 § 4121(u)
Florida	None Identified in Statute.	Fee Authorized. Fla. Stat. Ann. § 948.09 & Fla. Stat. Ann. § 947.1405

STATE	PRETRIAL EM FEE	POST-SENTENCING EM FEE
Georgia	Fee Authorized. Ga. Code Ann. § 17-6-1.1A	Fee Authorized. Ga. Code Ann. § 42-8-104, Ga. Code Ann. § 42-1-8, & Ga. Code Ann. § 42-1-14
Hawaii	None Identified in Statute.	None Identified in Statute.
Idaho	Fee Authorized. Idaho Code Ann. § 20-516A	Fee Authorized. Idaho Code Ann. § 18-8008A, Idaho Code Ann. § 20-225, & Idaho Code Ann. § 31-3201D
Illinois	Fee Authorized. 725 Ill. Comp. Stat. Ann. § 5/110-10(b)(14-14.3).	Fee Authorized. 730 Ill. Comp. Stat. Ann. § 5/5-8A-6, 725 Ill. Comp. Stat. Ann. § 5/5-6-3(g), 725 Ill. Comp. Stat. Ann. § 5/5-6-3(i-5)
Indiana	Fee Authorized with Certain (DV) Offenses. Ind. Code Ann. § 35-31.5-2-78 Fee Authorized for parents of youth in juvenile proceedings. Ind. Code Ann. § 31-40-1-3.8	Fee Authorized. Ind. Code Ann. § 35-38-2.5-6 & 11-10-11.5-12
Iowa	None Identified in Statute.	Fee Authorized with Certain (Sex) Offenses. Iowa Code Ann. § 905.14.
Kansas	Fee Authorized. Kan. Stat Ann. § 22-2802	Fee Authorized. Kan. Stat Ann. § § 21-6609 Fee Authorized with Certain (Sex) Offenses. Kan. Stat Ann. § 22-3717
Kentucky	Fee Authorized. Ky. Rev. Stat. Ann. § 431.517	Fee Authorized. Ky. Rev. Stat. Ann. § 403.761
Louisiana	Fee Authorized with Certain (DV) Offenses. LSA-R.S. 46:2143/ LA Code Crim. Proc. Art. 320 Fee Authorized with Certain (Sex) Offenses. LA Code Crim. Proc. Art. 320	Fee Authorized. LA Code Crim. Proc. Art. 894.2 Fee Authorized with Certain Offenses. LSA-R.S. 46:2143, LA R.S. 15:560.4, LA R.S. 15:574.62
Maine	None Identified in Statute.	Fee Authorized. Me. Stat. tit. 17-A, §1753 & §1659-A
Maryland	Fee Authorized. Md. Crim. Proc. § 5-201	Fee Authorized. Md. Corr. Serv. §6-108

STATE	PRETRIAL EM FEE	POST-SENTENCING EM FEE
Massachusetts	None Identified in Statute. (EM Generally Not Authorized, <i>Comm v. Norman</i> , 142 N.E.3d 1 (MA 2020).)	Fee Authorized with Certain (Sex) Offenses. Mass Gen. Law Ann. 265, §47 & 127, § 133D 1/2
Michigan	Fee Authorized with Certain (DV or other assaults) Offenses. Mich. Comp. Laws Ann. § 765.6b	Fee Authorized. Mich. Comp. Laws Ann. § 771.3c & Mich. Comp. Laws Ann. § 791.225a
Minnesota	Fee Authorized for Alcohol Monitoring. Minn. Stat. Ann. § 169A.44	Fee Authorized. Minn. Stat. Ann. § 169A.277, Minn. Stat. Ann. § 631.425, & Minn. Stat. Ann. § 244.18
Mississippi	Fee Authorized. Miss. Code. Ann. § 99-5-38	Fee Authorized. Miss. Code. Ann. § 47-7-5 & Miss. Code. Ann. § 47-5-1011 Intensive Supervision Fee Authorized. Miss. Code. Ann. § 47-5-1007 & Miss. Code. Ann. § 47-5-1013
Missouri	Fee Authorized. Mo. Rev. Stat. § 544.455 & Mo. Ann. Stat. § 455.095	Fee Authorized. Mo. Ann. Stat. § 557.011 Fee Authorized with Certain Offenses. Mo. Ann. Stat. § 455.095
Montana	Fee Authorized. Mont. Code Ann. § 46-9-108	Fee Authorized. Mont. Code Ann. § 46-23-1031 Fee Authorized with Certain (Sex) Offenses. Mont. Code Ann. § 46-23-1010
Nebraska	Fees for Pretrial Services that Include EM are Authorized. Neb. Rev. Stat. Ann. § 29-901	Fee Authorized. Neb. Rev. Stat. Ann. § 29-2262.04
Nevada	Fee Authorized. Nev. Rev. Stat. Ann. § 211.280	Fee Authorized. Nev. Rev. Stat. Ann. § 211.280
New Hampshire	None Identified in Statute.	None Identified in Statute.
New Jersey	Fee Authorized. NJ R CR R. 3:26-2	None Identified in Statute.
New Mexico	None Identified in Statute.	None Identified in Statute.

STATE	PRETRIAL EM FEE	POST-SENTENCING EM FEE
New York	None Identified in Statute.	None Identified in Statute, but authorized by case law.[†]
North Carolina	Fee Authorized. N.C. Gen. Stat. Ann. § 7A-313.1	Fee Authorized. N.C. Gen. Stat. Ann. § 14-208.45
North Dakota	Fee Authorized. N.D. Cent. Code Ann. § 12-67-03	Fee Authorized. N.D. Cent. Code Ann. § 12-67-03
Ohio	Fee Authorized. Ohio Rev. Code § 2746.02	Fee Authorized. Ohio Rev. Code Ann. § 5120-17-05 Fee Authorized with Certain Offenses. Ohio Rev. Code § 2746.02
Oklahoma	Fee Authorized. Okla. Stat. tit. 22, § 1105	Fee Authorized. Okla. Stat. tit. 22, § 57-510.9
Oregon	None Identified in Statute.**	None Identified in Statute.**
Pennsylvania	None Identified in Statute.	Fee Authorized. Penn. 37 C.P.L. 705
Rhode Island	Fee expressly prohibited.** 1965 R.I. Gen. Law § 42-56-20.2	Fee Authorized. 222 R.I. ADC 50-00-1.1
South Carolina	None Identified in Statute.	Fee Authorized. S.C. Code § 24-21-85 Fee Authorized for Certain (Sex) Offenses. S.C. Code § 23-3-540
South Dakota	Fee Authorized for Alcohol Monitoring. SDCL § 1-11-29	Intensive Supervision Fee Authorized. SD ADC 17:61:01:12 Fee Authorized for Work Release program. SDCL § 24-8-9
Tennessee	Fee Authorized with Certain Offenses. Tenn. Code Ann. § 40-11-152 Fee Authorized for Alcohol Monitoring. Tenn. Code Ann. § 40-11-118	Fee Authorized. Tenn. Code Ann. § 40-28-201
Texas	Fee Authorized. Tex. Crim. Pro. Art. Art. 17.43	Fee Authorized. Tex. Crim. Pro. Art. 42.035 & Tex Local Govt. § 351.904

STATE	PRETRIAL EM FEE	POST-SENTENCING EM FEE
Utah	Fee Authorized. Utah Code Ann. § 77-20-205	Fee Authorized. Utah Code Ann. § 77-18-107 Fee Authorized for Alcohol Monitoring. Utah Code Ann. § 41-6a-515
Vermont	None Identified in Statute.	None Identified in Statute.
Virginia	Fee Authorized. Va. Code Ann. § 19.2-123.4	Fee Authorized. Va. Code Ann. § 53.1-131.2 & § 9.1-176.1
Washington	Fee Authorized. Wash. Rev. Code. § 10.01.160	Fee Authorized. Wash. Rev. Code. § 9.94A.704 Fee Authorized for Alcohol Monitoring. Wash. Rev. Code Ann. § 46.61.5055 Fee Authorized with Certain Offenses. Wash. Rev. Code Ann. § 9.94A.704 26.50.110
West Virginia	Fee Authorized. W. Va. Code Ann. § 62-11B-5	Fee Authorized. W. Va. Code Ann. § 15A-4-3 & § 62-11B-5. Fee Authorized with Certain (Sex) Offenses. W. Va. Code Ann. § 62-11D-3
Wisconsin	Fee Authorized. Wis. Stat. Ann. § 969.02 & §. 969.03	Fee Authorized. Wis. Stat. Ann. §. 302.425 & § 301.135
Wyoming	None Identified in Statute.	Intensive Supervision Fee Authorized. Wyo. Stat. Ann. § 7-13-1105 & § 14-6-309

* In Arizona, in addition to a lack of pretrial statutory authority to charge for EM, case law expressly holds that a county cannot shift the cost of GPS monitoring to defendants awaiting trial. *Hiskett v. Lambert*, 451 P.3d 408 (AZ Ct. App. 2019).

† The New York Court of Appeals has held that, even when costs are not explicitly authorized by the statute, it is “understood as implicitly necessary to satisfy the condition itself.” *People v. Hakes*, 32 N.Y.3d 624, 630 (NY 2018).

** In 2020, Oregon amended its statutes to eliminate language that had previously permitted charging fees related to EM at any stage.

** Although 1965 R.I. Gen. Law § 12-13-1.3 authorizes the use of EM pretrial through the department of corrections, 1965 R.I. Gen. Law § 42-56-20.2 provides “a person committed, awaiting trial and not convicted, shall not be liable for the reimbursement.”

County-Level Data

With the lack of clarity on fee amounts or limits at the statutory level in most states, in practice, counties and municipalities often have widely varying fees related to electronic monitoring. To provide a small snapshot into the extent of these fees, we conducted limited research into counties that list their EM fees publicly on county, court, or supervisory agency websites. Appendix B provides EM fee rates in select counties at the local level during the pretrial stage, and appendix C provides EM fee rates imposed at the post-sentencing stage. Neither is intended to be an exhaustive list.

Both charts include the jurisdiction that imposes the EM fee, the amount, frequency, and the installation fee if it was provided on the EM provider's website. Some EM providers acknowledge that participants are assessed a fee on a sliding scale based on their income or household income but do not provide the ranges. A few EM providers also differentiated the fees between different types of electronic monitoring devices.

All information included in the chart below is current as of August 9, 2022.

Appendix B

Pretrial County Level Data

STATE	JURISDICTION	FEE	FREQUENCY	INSTALLATION FEE
Alabama	<u>Mobile Community Corrections Center</u>	\$8	Per Day	\$50
Kansas	<u>Johnson County</u>	\$ 8-14	Per Day	
New Hampshire	<u>Belknap County Pretrial Services</u>	\$10.50 daily rental fee \$73.5 per week for program fee	Per Day/ Week	
North Carolina	<u>Wake County's The ReEntry, Inc</u>	\$10	Per Day	\$25
North Dakota	<u>Mercer County: (24/7 Sobriety Program)</u>	\$6	Per Day	\$135
Pennsylvania	<u>Adams City, PA</u>	\$6	Per Day	
South Dakota	<u>Pennington County (Pretrial 24/7 Sobriety program)</u>	\$6	Per Day	
Texas	<u>Bexar County Pretrial Services</u>	\$270 for RF \$300 for GPS	Per Month	
Virginia	<u>City of Richmond</u>	Sliding Scale	Per Day	
Wisconsin	<u>Chippewa County</u>	\$20 for GPS \$26 for Alcohol Monitoring	Per Day	

Appendix C

Post-Sentencing County Level Data

STATE	JURISDICTION	FEE	FREQUENCY	INSTALLATION FEE
Alabama	<u>Mobile Community Corrections Center</u>	\$8	Per Day	\$50
Alaska	<u>Department of Corrections EM Program</u>	\$14	Per Day	
California	<u>Fresno County, LA County</u>	Sliding Scale		\$250 +\$60 for an intact interview
Colorado	<u>La Plata County</u>	\$12	Per Day	\$50
Florida	<u>Miami Dade County</u>	\$2	Per Day	\$100
Idaho	<u>Ada County</u>	\$25 or sliding fee	Per Day	
Illinois	<u>Henry County</u>	\$40	Per Day	\$25
Iowa	<u>Scott County Sheriff's Office</u>	\$10	Per Day paid upfront for the anticipated length of program	
Kansas	<u>Johnson County</u>	\$8-\$14	Per Day	
Minnesota	<u>Anoka County</u>	\$17	Per Day	\$25
	<u>Cass County's Electronic Home Monitoring program</u>	\$20	Per Day	
New Hampshire	<u>Department of Corrections, Strafford County</u>	\$5.50-\$8.75	Per Day	
New York	<u>Suffolk County</u>	\$5	Per Day	
	<u>Clinton County</u>	\$5-\$6	Per Day	

STATE	JURISDICTION	FEE	FREQUENCY	INSTALLATION FEE
North Dakota	<u>Stutsman County</u>	\$13	Per Day	\$50
Ohio	<u>Bowling Green</u>	\$12		\$50
Oklahoma	<u>Department of Corrections probation/parole</u>	\$5.50 "passive" monitoring 13.50 "active" monitoring	Per Day not to exceed \$300 per month	
Oregon	<u>Jackson County</u>	\$30	Per Day	\$30 application fee
Pennsylvania	<u>Wyoming County</u>	\$11	Per Day	
South Carolina	<u>Department of Corrections</u>	\$20	Per Week	
South Dakota	<u>Minnehaha County</u>	\$15	Per day	up to \$105
Utah	<u>Utah County Sheriff Dept</u>	\$70	Per Week	\$170
Virginia	<u>City of Richmond</u>	Sliding Scale	Per Day	
Wisconsin	<u>Washington County</u>	\$30	Per Day	

Endnotes

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- 2 The U.S. Commission on Civil Rights, *Targeted Fines and Fees Against Communities of Color*, September 2017, https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf
- 3 The Pew Charitable Trusts, *Use of Electronic Offender-Tracking Devices Expands Sharply* (Sept. 30, 2016). https://www.pewtrusts.org/-/media/assets/2016/10/use_of_electronic_offender_tracking_devices_expands_sharply.pdf
- 4 Bloomberg.com. "A Bigger Market for Electronic Ankle Monitors," (July 14, 2020). <https://www.bloomberg.com/news/articles/2020-07-14/coronavirus-creates-big-market-for-electronic-ankle-monitors#xj4y7vzkg>.
- 5 Though this analysis focuses on statutory authority and, therefore, cannot capture all possible sources of authority for imposing EM fees, the goal is to begin to analyze this complex issue from a reasonable starting point and to educate readers about how the legislative process affects EM fees.
- 6 For example, Johnson County, Kansas, charges individuals \$140 upfront if they are sentenced to 10 days or less, <https://www.jocogov.org/department/department-corrections/adult-services/house-arrest>; and Utah County, Utah, charges participants \$170 in advance for their first two weeks, <https://sheriff.utahcounty.gov/corrections/gps>.
- 7 Ind. Code § 35-38-2.5-6 (6)(A)&(7); Wash. R.Crim.P. L-711.
- 8 Ala. Code § 15-20A-20; Ark. Code Ann. §§ 16-98-304,12-12-923; Conn. Gen. Stat. Ann. §§ 46b-38c, 53a-30; Ga. Code Ann. §§ 17-6-1.1A, 42-8-104; Idaho Code Ann. §§ 20-516A, 18-8008A, 20-225; 725 Ill. Comp. Stat. Ann. § 5/110-10(b)(14-14.3), & 730 Ill. Comp. Stat. Ann. § 5/5-8A-6; Ind. Code Ann. §§ 35-31.5-2-78, 35-38-2.5-6, 11-10-11.5-12; Kan. Stat Ann. §§ 22-2802, 21-6609; Ky. Rev. Stat. Ann. §§ 431.517, 403.761; LSA-R.S. 46:2143 & LA C.Cr.P. Art. 320 & Art. 894.2; Md. Crim. Proc. § 5-201, Md. Corr. Serv. §6-108; Mich. Comp. Laws Ann. §§ 765.6b, 771.3c; Minn. Stat. Ann. §§ 169A.44, 169A.277; Miss. Code Ann. §§ 99-5-38, 47-7-5, 47-5-1011; Mo. Rev. Stat. §§ 544.455, 455.095, 557.011; Mont. Code Ann. §§ 46-9-108, 46-23-1031; Nev. Rev. Stat. Ann. §§ 211.280, 211.280; N.C. Gen. Stat. Ann. §§ 7A-313.1, 14-208.45; N.D. Cent. Code Ann. §§ 12-67-03, 12-67-03; Ohio Rev. Code §§ 2746.02, 5120-17-05, 2746.02; Okla. Stat. tit. 22, §§ 1105, 57-510.9; SDCL §§ 1-11-29, 24-8-9, SD ADC 17:61:01:12; Tenn. Code Ann. §§ 40-11-152, 40-28-201; Tex. Crim. Pro. Art. 17.43, Art. 42.035, Tex Local Govt. § 351.904; Utah Code Ann. §§ 77-20-205, 77-18-107; Va. Code Ann. §§ 19.2-123.4, 53.1-131.2, 9.1-176.1; Wash. Rev. Code. §§ 10.01.160, 9.94A.704, 46.61.5055, 9.94A.704; W. Va. Code Ann. §§ 62-11B-5, 15A-4-3; Wis. Stat. Ann. §§ 969.02, 969.03, 302.425, 301.135.
- 9 Alaska Stat. Ann. § 33.30.065; Ariz. Rev. Stat. Ann. § 41-1604.13, Colo. Rev Stat. Ann. § 18-1.3-106, Del. Code Ann § 4332; Fla. Stat. Ann. § 947.1405; Iowa Code Ann. § 905.14; Maine §§1753 & §1659-A; MA ST 265, §47 & M.G.L.A. 127 § 133D 1/2; Neb. Rev. Stat. Ann. § 29-2262.04; Penn. 37 C.P.L. 705; 1965 R.I. Gen. Law § 42-56-20.2 & 1965 R.I. Gen. Law § 12-13-1.3 ; SC Code § 24-21-85, and Wyo. Stat. Ann. § 7-13-1105 & Wyo. Stat. Ann. § 14-6-309.
- 10 This number does not include Arizona, which does not prohibit pretrial EM fees by statute but has case law prohibiting them in practice. *Hiskett v. Lambert*, 451 P.3d 408 (AZ Ct. App. 2019).
- 11 Cal. Penal § 1208.2.
- 12 1965 R.I. Gen. Law § 42-56-20.2 & 1965 R.I. Gen. Law § 12-13-1.3.
- 13 Emma Anderson, Alyson Hurt, and Joseph Shapiro, "State-By-State Court Fees," National Public Radio (May 19, 2014) (finding EM fees being imposed in in practice every state except Hawaii and the District of Columbia) available at <https://www.npr.org/2014/05/19/312455680/state-by-state-court-fees>.
- 14 *People v. Hakes*, 32 N.Y.3d 624, 630 (NY 2018) (Holding that, because the legislature authorized SCRAM electronic alcohol monitoring as a possible condition of probation, it implicitly authorized courts to impose costs on defendants so that the condition could be met.).
- 15 See appendix C.
- 16 For example, in California, initial legislation in 2020 removed language that authorized local government boards to charge fees for electronic monitoring but left it unclear whether private companies could continue to do so. Subsequent legislation—**AB 199**—which went into effect July 1, 2022, specifically prohibited such fees, whether imposed by public or private entities. Cal. Penal § 1208.2. Oregon's code does not expressly prohibit such fees.
- 17 See appendices C.
- 18 See appendices B & C.
- 19 Alaska, Arizona, Colorado, District of Columbia, Delaware, Florida, Hawaii, Iowa, Maine, Massachusetts, Nebraska, New Hampshire, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wyoming.
- 20 District of Columbia, Hawaii, New Hampshire, New Mexico, New Jersey, New York, Oregon, and Vermont.
- 21 See e.g., Ala. Code § 15-20A-20; Conn. Gen. Stat. Ann § 53a-30; LA C.Cr.P. Art. 894.2; Mich. Comp. Laws Ann. § 771.3c & Mich. Comp. Laws Ann. § 791.225a; Tenn. Code Ann. § 40-28-201; TX CRIM PRO ART. 42.035.
- 22 See e.g., Kan. Stat Ann. § 22-2802 & Kan. Stat Ann. § 21-6609; Utah Code Ann. § 77-18-107.

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- 27 Scott County Sheriff's Office, Electronic Monitoring Program, <https://www.scottcountyiowa.gov/sheriff/jail/programs/electronic-monitoring>; Stutsman County Correctional Center, Electronic Home Monitoring (EHM) Program - Stutsman County, last visited June 8, 2022, <https://www.stutsmancounty.gov/departments/correctional-center/ehm/>
- 28 Jackson County Community Justice, "Home Detention," last visited July 13, 2022, <https://jacksoncountyor.org/community-justice/Adult-Services/Home-Detention>
- 29 In California, AB 199 amended Cal. Penal Code 1208.2, effective July 1, 2022.
- 30 Fresno County, Electronic Monitoring FAQ, last visited July 14, 2022 <https://www.co.fresno.ca.us/departments/probation/adult-services/adult-offender-work-program/work-furlough-faq>; County of Los Angeles Probation, Adult Probation FAQs, last visited July 14, 2022, <https://probation.lacounty.gov/adult-probation-faqs/#electronicMonitoringTab>.
- 31 Alert, Inc. Home Detention in West Virginia webpage, last visited, July 14, 2022: <https://www.alertinc.info/house-arrest-west-virgina.html>.
- 32 *Sheriff's Office Annual Report 2019*, Fairfax County, VA, 64, (claiming Va. Code Ann. § 53.1-131.2 requires participants to pay for EM), <https://www.fairfaxcounty.gov/sheriff/sheriffs-office-annual-report-2019> (last visited July 14, 2022). In reality, Va. Code Ann. § 53.1-131.2 only requires participants to pay for damaged or unreturned equipment and provides simply that "[t]he director or administrator of a home/electronic incarceration program may charge the offender or accused a fee for participating in the program." (emphasis added).
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- 36 See e.g., Fla. St. Ann. § 948.09; Ga. Code § 42-8-104; LA C.Cr.P. Art. 894.2; Okla. Stat. Ann. tit. 57 §57-510.9.
- 37 Alabama Appleseed et. al., *Under Pressure: How Fines Hurt People, Undermine Public Safety, and Drive Alabama's Racial Wealth Divide*, 4, Alabama Appleseed (2018), <https://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>.
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- 50 The U.S. Commission on Civil Rights, *Targeted Fines and Fees Against Communities of Color*, (September 2017), https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf.
- 51 See e.g., 22 OK Stat § 1105.2; NM § 31-21-13.1; UT 77-18-107;
- 52 See e.g., AZ ST § 41-1604.13; IC 35-38-2.5-8; NH ST § 504-A:13;
- 53 Fla. Stat. Ann. § 948.11, Fla. Stat. Ann. § 948.09, & Fla. Stat. Ann. § 947.1405; Minn. Stat. Ann. § 241.272, Minn. Stat. Ann. § 244.18, & Minn. Stat. Ann. § 241.272; and RI ST § 42-56-20.2 & 42-56-38.
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- 60 See e.g., Idaho Code Ann. § 31-3201J.
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