

Electronic Monitoring Indigency Fund Task Force 2022 Task Force Report

TO: The Honorable Bill Lee,
Governor

The Honorable Randy McNally,
Lt. Governor and Speaker of the Senate

The Honorable Cameron Sexton,
Speaker of the House of Representatives

The electronic monitoring indigency fund task force was established by the General Assembly in 2022 pursuant to [Public Chapter 1084](#). This task force is comprised of the chair of the criminal justice committee of the house of representatives, the chair of the finance committee of the house of representatives, the chair of the senate judiciary committee, the chair of the senate finance committee, the commissioner of safety's designee (who served as the chair), the state treasurer's designee, a member of the Tennessee County Services Association or the County Officials Association of Tennessee, a member of the Tennessee general sessions judges conference, and a member of the governor's administration. The purpose of the task force is to "study and make recommendations on the future of the electronic monitoring indigency fund." In particular, the task force is tasked with reviewing:

- The current definition of indigency and proposed changes to the definition in state law:
 - Please see recommendation 1 below.
- The number of ignition interlock devices and electronic monitoring devices currently covered by the electronic monitoring indigency fund, created in title 55, chapter 10, part 4, and any future projections:
 - Drug Patch: 29
 - Drug Patch, GPS: 1
 - Drug Patch, Transdermal / SCRAM: 3
 - GPS: 45
 - GPS, Mobile Breathalyzer, Transdermal / SCRAM: 1
 - GPS, Transdermal / SCRAM: 3
 - Ignition Interlock: 524
 - Mobile Breathalyzer: 8
- The current volume of monthly claims and any future projections of monthly

claims:

Total Claims By FY	Interlock	Non-Interlock	Total	Percent Change
2019	364	828	1192	-
2020	833	978	1811	52%
2021	730	1070	1800	-1%
2022	748	822	1570	-13%
2023	748	822	1570	*Projected
2024	748	822	1570	*Projected

- The number of claims being denied and the reasons for denial:
 - 263 Claims denied in FY2022:
 - Affidavit of Indigency not received or incomplete
 - Court order not received or incomplete
 - Ineligible GPS
 - Incomplete form or no supporting documents
 - Inactive/ineligible provider
 - Other i.e. form completed erroneously (multiple items marked in error)
- The average payments per claim:
 - A claim is the initial order made by the court and requires no payment, while invoices are submitted monthly for approved claims for devices. Because multiple invoices can be from one claim, the task force was not able to produce this data. The average payment per monthly approved invoices was \$122.96 during FY 2022.
- The length of time for which a device may be covered by the electronic monitoring indigency fund:
 - Most devices are covered for 12 months. There are some situations where coverage is extended based on an amended court order, typically for non-compliance. The Department of Safety approves extensions for interlock devices.
- Options for sustainable funding and operation of the electronic monitoring indigency fund:
 - Please see recommendations 3 and 4 below.

[Public Chapter 1084](#) required the task force to report its finding and recommendations to the governor, the speaker of the house of representatives, and the speaker of the senate no later than September 30, 2022.

The task force held five meetings during the summer of 2022. The meetings were held on June 8th, July 6th, July 26th, August 9th, September 13th and September 21st. All meetings were held in person in Nashville, TN with a video conference option for each meeting.

The following considerations were given a positive recommendation by the task force on September 21, 2022:

1. Recommend amending the definition of indigency relative to the electronic monitoring indigency fund to establish a clear framework allowing for consistent determination of indigency by reviewing factors such as income thresholds, household considerations, and other factors; however, the task force recognized there needs to be additional study of these factors before a final determination and language can be proposed;
2. Recommend that the court shall require any offender receiving assistance through the electronic monitoring indigency fund to pay a portion of the monthly fees for the devices covered by the fund, regardless of the indigency determination;
3. Recommend funding the ignition interlock devices, in part or in whole, through an appropriation in the state's budget;
4. Recommend funding non-ignition interlock electronic monitoring devices through a grant program administered by the Executive Branch;
5. Recommend requiring periodic reporting on the electronic monitoring indigency fund, subject to a determination by the General Assembly; and
6. Recommend the Comptroller audit the use of the electronic monitoring indigency fund.

The task force additionally recommended on September 21, 2022 that the General Assembly conduct additional study on the following items:

1. The General Assembly should consider allowing DUI court fines and fees be paid through payment installments, rather than the current requirement that fines and fees be paid in full at once in order to reinstate driving privileges;
2. The General Assembly should consider whether, and to what extent, local governments should be required to pay for portions of activities relative to the electronic monitoring indigency fund;
3. The General Assembly should consider evaluating and researching the current cost and reimbursement rate to provide non-ignition interlock devices;
4. The General Assembly should consider separating the existing electronic monitoring indigency fund into two distinct funds: one fund for ignition interlock devices and one fund for non-ignition interlock monitoring devices;

and consider relocating the funds to other agencies within the Executive Branch; and

5. The General Assembly should consider a process to review the electronic monitoring indigency fund program for inappropriate application of the determination of indigency.

Members of the task force voting in the affirmative on the report:

Captain Travis Plotzer,
Chairman and designee for the Commissioner of Safety

John Gleason,
Representative for the Chair of the House Criminal Justice Committee

Patsy Hazlewood,
Chair of the House Finance Committee

Bo Watson,
Chair of the Senate Finance Committee

Erica Nale,
Representative for State Treasurer

David Connor,
Representative of the Tennessee County Services Association of Tennessee

Judge Lila Statom,
Representative of General Sessions Judges Conference

Grant Minchew,
Representative from the Governor's Administration