IN THE CIRCUIT COURT OF SPECIFY COUNTY
CRIMINAL DIVISION—(DISTRICT NAME)

People of the State of Illinois	)	
	)	
vs.	)	CASE NO.
	)	
NAME OF ACCUSED	)	

PETITION TO REMOVE ELECTRONIC MONITORING
OR TO MODIFY THE ORDER OF ELECTRONIC MONITORING
TO COMPLY WITH THE PRETRIAL FAIRNESS ACT

NOW COMES NAME, by his/her/their attorney, and respectfully requests that this Honorable Court remove the present order of pretrial electronic monitoring to comply with the Pretrial Fairness Act, as amended, which modifies relevant provisions of 725 ILCS 5/110-5; 730 ILCS 5/5-8A-4, effective January 1, 2023. In the alternative, if the Court finds on the record that electronic monitoring remains necessary under the law, NAME requests that the Court modify the conditions to comply with the movement provisions of Pretrial Fairness Act. In support, NAME states:

1. NAME was arrested on date of arrest and charged with the offense criminal charge, statutory citation.

2. A pretrial release hearing was held in relation to those charges on date of pretrial release hearing. [His/her/their Pretrial Safety Assessment score was PSA scores. There was no violence flag indicated.] At the pretrial release hearing, NAME was ordered to be placed on electronic monitoring as a condition of pretrial release.

3. As a result of the Court's pretrial release order, NAME, has been on electronic monitoring for # days. The imposition of electronic monitoring and home confinement on a person awaiting trial constitutes a severe restriction of the person's liberty. NAME has been subject to almost 24/7 home confinement and has been unable to [Add argument about restrictions here]. Despite the onerous restrictions, NAME has complied with all conditions of electronic monitoring during that time.

4. NAME now moves to remove the electronic monitoring conditions or, in the alternative, to modify those conditions to ensure essential movement as required by Illinois law.

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5. As of January 1, 2023, significant changes pertaining to electronic monitoring went into effect:

    a. Electronic monitoring is now allowed only in very limited circumstances and after a finding on the record by the Court.

        i. The Court may only order electronic monitoring, GPS monitoring, or home confinement as a condition of pretrial release if "no less restrictive condition of release or combination of less restrictive condition[s] of release would reasonably ensure the appearance of the defendant for later hearings *or* protect an identifiable person or persons from imminent threat of serious physical harm." 725 ILCS 5/110-5(g).

        ii. Further, if the Court does order monitoring as a condition of pretrial release, the Court must make a determination every 60 days thereafter as to whether electronic monitoring, GPS monitoring, or home confinement remains necessary as a pretrial condition under the statute. 725 ILCS 5/110-5(i). Upon the 60-day review, an order of electronic monitoring or home confinement may only be *re*-imposed if the Court finds there continue to be no less restrictive condition of release or combination of less restrictive conditions of release that would reasonably ensure the appearance of the accused for later hearings or to protect an identifiable person or persons from imminent threat of serious physical harm. *Id.*

        iii. If the Court finds at any time that there are less restrictive conditions of release that would ensure the defendant's appearance and prevent again imminent harm the Court must order that the electronic monitoring condition be removed. 725 ILCS 5/110-5(i) ("If the court finds that there are less restrictive conditions of release, the court shall order that the condition be removed.").

    b. In any case in which a Court finds that electronic monitoring is warranted in accordance with the provisions cited above, the Court must also order specific and enumerated types of movement as part of the pretrial release conditions. In particular:

        i. The law now expressly requires that "any person ordered to pretrial home confinement with or without monitoring be provided with movement spread out over **no fewer than two days per week**, to participate in basic activities such as those listed in paragraph (A)," described in subsection (ii), below. 730 ILCS 5/5-8A-4(A-1) (emphasis added). The law further clarifies that "days" means "a

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reasonable time period during a calendar day, as outlined by the court in the order placing the person on home confinement." *Id.*

ii. The law also expressly requires that instances of approved absences from the home include, but not be limited to, the following:

(a) working or employment approved by the court or traveling to or from approved employment;

(b) seeking employment approved for the participant by the court;

(c) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the participant by the court;

(d) attending an educational institution or a program approved for the participant by the court;

(e) attending a regularly scheduled religious service at a place of worship;

(f) participating in community work release or community service programs approved for the participant by the supervising authority;

(g) for another compelling reason consistent with the public interest, as approved by the supervising authority; or

(h) purchasing groceries, food, or other basic necessities.

(i) [Where a person ordered on electronic monitoring is pregnant or has "given birth within 6 weeks" additional enumerated freedoms of movement on electronic monitoring are also now mandatory. Those persons "shall be granted ample movement to attend doctor's appointments and for emergencies related to the health of the pregnancy, infant, or postpartum person." 725 ILCS. 5/110-5.2(c)]

730 ILCS 5/5-8A-4(A).

6. NAME seeks review of his conditions of pretrial release, as he/she/they has/have not had their order of electronic monitoring reviewed within 60 days as required by 725 ILCS 5/110-5(i). Less restrictive conditions of release would serve to ensure

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his/her/their appearance for later hearings or to protect an identifiable person or persons from imminent threat of serious physical harm. [Add Argument: This is where the factors, such as compliance with the electronic monitoring program thus far and the appearance in court, plus the circumstances which display that there is no imminent threat should be added by the attorney. Can also add arguments about alternatives to EM here.]

7. Thus, in accordance with 725 ILCS 5/110-5(g) and (i), NAME should be removed from electronic monitoring.

8. In the alternative, if the Court finds on the record that electronic monitoring is warranted in accordance with the new provisions of the Pretrial Fairness Act, NAME asks that the Court alter the conditions of monitoring, which do not currently conform with the required minimum movement as provided by the statute. Specifically: [Add ones that apply]
    a. NAME is presently ordered to have no movement.

    b. NAME is presently ordered only specific restricted movement on less than two days a week.

    c. NAME is not permitted under the current conditions to have movement to: (choose the ones that apply)
        i. working or employment approved by the court or traveling to or from approved employment;
        ii. seeking employment approved for the participant by the court;
        iii. undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the participant by the court;
        iv. attending an educational institution or a program approved for the participant by the court;
        v. attending a regularly scheduled religious service at a place of worship;
        vi. participating in community work release or community service programs approved for the participant by the supervising authority;
        vii. for another compelling reason consistent with the public interest, as approved by the supervising authority; or
        viii. purchasing groceries, food, or other basic necessities.

    d. [NAME is also not permitted under the current conditions to have ample movement to attend doctor's appointments and for emergencies related to the health of the pregnancy, infant, or postpartum person.]

9. NAME seeks the following movement: Add here

10. Finally, if the Court finds that electronic monitoring should be continued, NAME asks that the court set forth in the record the basis for its finding, as required by 725 ILCS 5/110-5(h), and provide the requested movement. [NAME also requests that they

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receive custodial credit for # days they were subjected to electronic monitoring/home confinement. 725 ILCS 5/110-5(h).]

WHEREFORE, in accordance with the Pretrial Fairness Act, 725 ILCS 5/110-5 and 730 ILCS 5/5-8A-4(A), NAME respectfully requests that this Honorable Court review his/her/their electronic monitoring conditions of release, find that there are less restrictive options available, and remove the electronic monitoring condition of release. In the alternative, NAME asks that the Court amend the order of electronic monitoring to allow for mandatory movement, including allowing movement on no fewer than two days of each week and allowing movement for the enumerated purposes described above.

Respectfully Submitted,

BY:_____
Attorney Name
Counsel for NAME

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