

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 531
Judiciary

(Delegate Embry, *et al.*)

Judicial Proceedings

**Correctional Services – Parole Supervision Fees and Drug and Alcohol Abuse
Test Payment – Repeal**

This bill repeals (1) the requirement for the Maryland Parole Commission (MPC) to assess a monthly \$50 fee as a condition of supervision for each individual on parole and supervised by the Division of Parole and Probation (DPP); (2) the authorization for DPP to require an individual on parole and supervised by DPP to pay for drug and alcohol abuse testing ordered by MPC; and (3) all requirements relating to the supervision fee and payment for drug and alcohol abuse testing. The bill does not repeal the monthly supervision fee of \$50 that individuals placed under the supervision of DPP *by the court* are required to pay.

Fiscal Summary

State Effect: General fund revenues decrease by at least \$53,900 in FY 2025 and by at least \$71,900 annually thereafter due to the repeal of the MPC supervision fee, as discussed below. General fund expenditures increase, potentially significantly, beginning in FY 2025 to offset the cost of the drug and alcohol abuse testing contract that would otherwise be paid for by supervisees, as discussed below. Special fund revenues and expenditures for the Central Collection Unit (CCU) decrease beginning in FY 2025, as discussed below.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: None.

Analysis

Current Law:

Supervision Fee: Unless a supervisee is exempted by MPC, MPC must assess a monthly fee of \$50 as a condition of supervision for each supervisee to be paid to DPP. The fee is in addition to court costs and fines. DPP must pay all supervision fees collected into the general fund. MPC may exempt a supervisee wholly or partly from the fee if:

- the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;
- the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment and the institution in which the supervisee is enrolled supplies certification of student status to MPC, as applicable;
- the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that MPC (as applicable) accepts or orders;
- the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or
- other extenuating circumstances exist.

If a supervisee does not comply with the fee requirement, DPP must notify MPC. MPC may revoke parole or mandatory supervision for failure to make the required payment. MPC must conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation of the fee requirement, as specified.

Similar to individuals supervised by DPP for MPC, individuals placed under the supervision of DPP *by the court* are required to pay a monthly supervision fee of \$50, unless exempted, in addition to court costs and fines. If a supervisee does not comply with the fee requirement, DPP must notify the court and the court may revoke probation. Fees are paid to DPP and deposited into the general fund. (The bill does not repeal these provisions.)

Drug and Alcohol Abuse Testing: In addition to the supervision fee discussed above, DPP may require a supervisee to pay for drug or alcohol abuse testing that MPC orders. If DPP determines that any of the criteria for exemption from the supervision fee are applicable, DPP may exempt a supervisee wholly or partly from a payment for drug or alcohol abuse testing. If a supervisee fails to pay for drug or alcohol abuse testing as required, MPC may revoke parole or mandatory supervision.

Similar to drug and alcohol abuse testing ordered by MPC, *the court* may order testing for which DPP may require a supervisee to pay. If DPP determines that any of the criteria for exemption from the supervision fee are applicable, DPP may exempt a supervisee as a whole or in part from a payment for drug or alcohol abuse testing. (The bill does not repeal these provisions.)

Other Related Requirements: DPP must (1) investigate requests for an exemption from payment, if MPC requests an investigation and (2) keep records of all payments by each supervisee and report delinquencies to MPC.

On release of a supervisee, the Department of Public Safety and Correctional Services (DPSCS) and the appropriate local detention center must provide the supervisee with a specified oral and written notice that relates to supervision fee exemptions.

State Revenues: General fund revenues decrease by at least \$53,931 in fiscal 2025 (due to the bill’s October 1, 2024 effective date) and by at least \$71,908 annually thereafter due to the repeal of the MPC supervision fee. This estimate is based on the average annual supervision fees *collected* by MPC from fiscal 2021 through 2023, as reported by DPSCS and shown in **Exhibit 1**. The Department of Legislative Services advises that while the average annual supervision fees *imposed* by MPC over this same time period was approximately \$1.3 million, a significant amount of the fees imposed are not actually collected by MPC.

Exhibit 1
Supervision Fees Imposed by MPC and Amounts Collected and Uncollected
Fiscal 2021-2023

	<u>Fiscal 2021</u>	<u>Fiscal 2022</u>	<u>Fiscal 2023</u>
Fees Imposed	\$756,112	\$1,484,885	\$1,520,250
Fees Collected	\$83,241	\$59,182	\$73,301
Fees Uncollected	\$672,871	\$1,425,703	\$1,446,949

MPC: Maryland Parole Commission

Source: Department of Public Safety and Correctional Services

Unpaid fees are referred to CCU for collection. Neither CCU nor DPSCS could provide any historical data regarding the actual amount of unpaid MPC supervision fees ultimately collected by CCU under current law. Because the total amount of fees collected by DPSCS

varies from year to year, and the extent to which CCU would have been successful in collecting any unpaid fees in the absence of the bill is unknown, the actual loss in general fund revenues in any given year may be significantly higher than the above estimate.

CCU recovers its operating expenses by assessing and collecting a 17% fee in addition to and for the debts that it is assigned. Thus, by repealing the MPC supervision fee (and ultimately reducing the amount of debt referred to CCU for collection), the bill also decreases special fund revenues for CCU.

State Expenditures: General fund expenditures increase, potentially significantly, beginning in fiscal 2025 as a result of the repeal of the authorization for DPP to require an individual on parole and supervised by DPP to pay for drug and alcohol abuse testing ordered by MPC. DPSCS advises that the department has a vendor contract in place to ensure that (1) the equipment used for drug and alcohol testing is adequate; (2) if testing is positive for drug use but the individual denies use, test results are confirmed; and (3) a chemist is available to testify, if needed, at violation of parole hearings. The testing fee paid by individuals on parole and probation and supervised by DPP is used to offset the cost of the contract. As the testing requirement remains in place for individuals on probation and supervised by DPP, DPSCS intends to keep the contract in place under the bill; therefore, this analysis assumes that the State must pay to cover the costs currently covered by the testing payment provisions repealed by the bill.

In recent years, the caseloads of individuals under supervision by DPP has fluctuated between approximately 32,000 and 35,000 annually. DPSCS did not provide any information regarding the number of individuals under supervision of MPC who are required to pay for drug and alcohol abuse testing under current law each year; however, DPSCS advises that if MPC requires testing as a condition of parole, individuals under supervision are charged a one-time fee of \$100 to offset the cost of the testing. *For illustrative purposes*, if 5,000 individuals currently pay the \$100 fee that is repealed by the bill each year, general fund expenditures increase by \$375,000 in fiscal 2025 (due to the bill's October 1, 2024 effective date) and by \$500,000 annually thereafter to cover the contract costs.

In addition, special fund expenditures for CCU decrease, as fewer accounts are referred from DPSCS to CCU for collection.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 728 (Senator Carter) - Judicial Proceedings.

Information Source(s): Baltimore, Carroll, Queen Anne's, and St. Mary's counties; Maryland Department of Health; Department of Public Safety and Correctional Services; Comptroller's Office; Department of Budget and Management; Department of Legislative Services

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