

TESTIMONY IN SUPPORT OF HB 36
Juvenile Proceedings – Fines, Fees and Costs
House Judiciary Committee
January 16, 2020

Indigent children and their families in Maryland can be charged with burdensome and insurmountable fines, fees, and costs for involvement with Maryland's juvenile justice system. These financial burdens undermine the rehabilitative purpose of the juvenile system. Saddling indigent children and their families with these unpayable debts increases the possibility of recidivism and disproportionately impacts youth of color.¹

Attorney Fees

Pursuant to CJP § 3-8A-20(c) and CJP § 3-8A-32 a court may assess attorneys fees in juvenile matters in Maryland. In 1967 the United States Supreme Court ruled in the landmark decision of *In Re Gault* that children are entitled to due process rights and protections including the right to counsel.² This right is codified in Maryland in CJP § 3-8A-20 where it states that children are entitled to representation by counsel at all stages of a delinquency proceeding and can only waive counsel after being advised by counsel in court, and satisfying the court, that the child is knowingly and voluntarily waiving the right to counsel.

The child is the client in juvenile delinquency matters. It should be presumed that all children are indigent for purposes of legal representation. To impose attorney fees on a parent creates an inherent conflict of interest and undermines the sanctity of the attorney-client relationship since the parent is not the client. The right to counsel is a fundamental and Constitutional right and the courts should not be allowed to impose counsel fees in juvenile delinquency cases.

Cost of Detention

A child should only be placed in detention in limited circumstances and after a court determines that a child is a danger to self or others or at risk of fleeing the jurisdiction. CJP § 3-8A-15. The overriding public safety concerns resulting in a child's detainment should outweigh any financial benefit that the State may gain by imposing child support pursuant to CJP § 3-8A-29. The per diem cost for detention ranges from \$575 to \$1,137.³ These costs far exceed most family's ability to pay and would create an undue financial burden and the possibility of unnecessary tension and conflict created by that burden between the child and his/her family. The Department of Juvenile Services receives the necessary funds to operate their detention facilities. The objectives of rehabilitation, accountability and public safety should be the focus of the juvenile system, not monetary reimbursement.

¹ Piquero, Alex R. and Wesley G. Jennings, (2017) *Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, Youth Violence and Juvenile Justice. Vol 15(3) 325-340.

² *In re Gault*, 387 U.S. 1 (1967).

³ DJS Data Resource Guide, Appendix E, 2018.

Court and Administrative Costs

Court and administrative costs serve no rehabilitative purpose and are merely another financial obligation that courts can and do impose on a child and his/her family. Youth of color are overrepresented at every stage of the juvenile court process in Maryland⁴, and these court and administrative costs, among the other financial consequences of juvenile court involvement, will therefore disproportionately impact youth of color. In addition, if a child or family is unable to pay these court or administrative costs it can prolong court supervision, be converted to a civil judgment and create other long-lasting collateral consequences.

Fines

Imposing a financial penalty directly contradicts the stated purpose of Maryland's juvenile justice system to balance the rehabilitative needs of a child with public safety and hold the child accountable for his/her actions. *See* CJP § 3-8A-02. Instead, a fine as a penalty merely distinguishes between the child and family with financial means and the child and family without those means. If a child is unable to pay a fine, then s/he is in violation of a court order and can face additional consequences as a result. Dispositions in juvenile court are supposed to be premised on providing supervision or services to a child, not on a child's ability to pay. For all of the above reasons, **we urge your support of HB 36.**

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⁴ DJS Data Resource Guide 2018.