

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

## TESTIMONY IN SUPPORT OF HOUSE BILL 49:

### **Pretrial Release – Pretrial Risk Assessment Instruments**

**TO:** Hon. Luke Clippinger, Chair, and Members of the Judiciary Committee  
**FROM:** Derrell Frazier, Policy Advocate  
**DATE:** January 21, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates for policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. JOTF supports House Bill 49 as a means to ensure that working families are not pushed further into debt, simply due to an interaction with the criminal justice system.

It is well known that as advocates and policymakers continue to push for pre-trial reform in Maryland, there has been both an increase in individual's being released on their own recognizance and a decrease in a reliance on cash bail. Conversely, we've also seen a marked increase in pretrial defendants being held without bond. As this number increases, along with the pretrial population, many Marylanders, especially Black defendants, continue to be held with limited access to resources during pretrial detention. Persons who pose no threat to public safety nor are flight risks, yet are jailed because they cannot afford a cash bail, commercial bond or other pretrial condition with a monetary requirement, experience the loss of wages, jobs, and housing, while other important life matters, such as childcare or child support payments, are put on hold. It is no secret that the effect is most pronounced for communities of color.

The Job Opportunities Task Force (JOTF) remain vehemently opposed to our current criminal justice systems: one for the rich and one for the poor. Hence, our strong advocacy to eliminate the reliance of cash bail in Maryland in pretrial. In 2017, the Maryland Court of Appeals rule effectively stymied the use of cash bail, while advocates successfully defeated the bail bonds' industry in Annapolis. Together, these efforts ushered in the state's monumental first step towards bail reform. However, there is still work to be done to ensure full reform of our pretrial system.

Pretrial risk assessments are often used to evaluate a defendant's flight risk and threat to public safety, and assist judicial officers in making pretrial release determinations. However, given the intersectionality of race, criminality and poverty in our criminal justice systems, and the factors used in the algorithms to determine "risk", racial biases ungirded by socio-economic inequities, the results could result in larger populations of Black defendants being detained rather than consideration of alteration pretrial options.

The proposed legislation would require an independent validation study of pretrial risk assessment tools every three (3) years. This tool should **not** be used to determine release/detention, but should be used to determine the conditions imposed on an individual who **will** be released. Regular review and validation of risk assessment tools is an important tool in ensuring racial and socio-economic equity in an inherently racist and classist criminal justice system. For these reason, we urge a favorable report on HB 49.