

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 898:

Maryland Criminal Justice Debt Elimination and Prevention Act of 2021

TO: Hon. William Smith, and Members of the Senate Judicial Proceedings Committee

FROM: Korey Johnson Esq., Senior Policy Research Analyst; and Coalition Members

DATE: March 11th, 2021

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We strongly support Senate Bill 898 as a means of reducing the devastating impact of court related fines and fees on low-income communities in Maryland.

In 2018, JOTF released a report called “[The Criminalization of Poverty](#)” which dissects the pathways in which Maryland residents from impoverished communities unjustly encounter the Criminal Justice System. Part II of the report goes forward to outline how extensive fines and fees related to interactions with the criminal justice system impoverish Marylanders, specifically lower-income communities of color. These “fees for service” include court-related fees (administrative, jury, and restitution), home detention, parole and probation, public defender representation (application and reimbursement), jail room and board (especially for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). The goal of fees is often to recoup costs and generate revenue.

Marylanders from low-income communities, particularly communities of color, often find themselves strapped with significant court-related debts that can be impossible to pay. In 2018, Alexes Harris, a sociologist at the University of Washington, estimates that 80-85% of incarcerated persons now leaving prison owe criminal justice costs. This is estimated to amount to some 10 million Americans who owe more than \$50 billion in criminal justice debt.

Maximizing on the misfortune of the indigent is the Central Collections Unit (CCU) which layers on tremendous amounts of interest - averaging around 17% - to the already unpayable debts. The CCU is entirely funded off of the money collected from debtors and as such are incentivized, perhaps incidentally, to increase penalties unnecessarily. The current business model is unsustainable and disproportionately harms indigent Marylanders who lack the capital to pay down such fees.

The district and circuit [fee schedule](#) show that a variety of hefty fees for service for almost every interaction with the courts regarding criminal justice. They serve to further impoverish already indigent individuals and keep them in a spiral of debt. Some specific fees that Senate Bill 898 seeks to eliminate are as follows:

- Criminal Cases - Filing Fee: \$80
- Criminal Cases - Cost if Convicted: \$45
- Criminal Cases - Cost if of a non-jailable offense: \$3
- Expungement (Guilty Dispositions) - \$30
- Expungement (Appeal from district court): \$115
- Removals from circuit court to circuit court: \$60
- Removals from district court: \$165

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- Jury Costs - costs for unused jurors & expense of transporting jurors: variable

The Department of Parole and Probation also reports that they charge a monthly fee of \$40 for every individual on parole and \$50 to every individual on probation. These fees are used to reimburse the department for services rendered and are assigned by either the judge (probation), commissioner (parole), or other judicial official that the court deems suitable. [Data](#) from the National Institute of Corrections reports that as on December 31, 2018, Maryland Department of Corrections had 70,248 persons on probation and 10,338 on parole. When applying the probationary fee of \$50 to this population for the month of December, we arrive at a grand total of over \$3.5 million to the state; expanding annually, the total cost to individuals of probation would be over \$42 million. Considering Parole, the monthly intake is \$413,520 or nearly \$5 million annually. Using the December numbers as an experimental basis, it is safe to assume that the state collected \$47 million annually from this program.

The dire concern with Parole and Probation fees revolve around the consequences for an individual that does not have the ability to pay. Non-payment counts as a violation of probation which risks incarceration and the fee is sent directly to the Central Collections Unit which adds on average 17% to the debt. In certain circumstances, the judge, commissioner, or leading judicial official can waive payments but this does not occur often. As such, the current system effectively operates as a debtor's prison, which is illegal under section 38 of the Maryland Constitution. Senate Bill 898 seeks to realign our parole and probation practices with our state's edicts.

Next for consideration is possible reimbursement fees for the use of a public defender. A public defender is allotted by constitutional mandate to any individual facing a trial that could potentially lead to incarceration. Individuals who qualify as indigent under Criminal Procedure §16–210 are entitled to use the services of a public defender and are supposed to receive this service for free. However, data is mixed on defendants owing reimbursement fees throughout the state. Some counties have charged individuals post trial reimbursement fees if the trial ended in a guilty disposition. Senate Bill 898 ensures that defendants will not be forced to pay for this constitutionally free service.

Lastly, there is the variable cost of home detention and drug and alcohol testing. Nearly half of the state's jurisdictions charge a variable fee for participating in public home detention programs and many judges, during bail review, can place defendants on private home detention monitoring which charges exorbitant set up fees and over \$300 per month. ASAP home detention charged one of our clients as much as \$364 per month with the risk of non-payment counting as an incarcerable violation. Some counties charge up to \$75 per month for their state run home detention program. Though counties like Baltimore have moved to eliminate the public fees, this is not statewide and many jurisdictions (like Baltimore County) opt to use private services further impoverishing poor defendants. Beyond this is the \$100 flat fee for drug and alcohol testing that members on home detention, parole and probation also need to pay upfront to maintain their freedom. Senate Bill 898 seeks to mitigate these fees as well.

Given that Maryland's criminal justice system disproportionately (and at many times unnecessarily) burdens lower-income communities of color, Senate Bill 898 would build off legislation recently announced in New York to eliminate the majority of financial debts arising from court-related fines and fees. The fees up for elimination include court-related fees (administrative, jury, and restitution), home detention, parole and probation, public defender representation (application and reimbursement), jail room and board (specifically for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). The mitigation of these fees would sharply reduce the amount of debt indigent populations face throughout the state. This will go a long way in reducing punitive

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damages on financially vulnerable Marylanders. For these reasons, we strongly urge a favorable report on Senate Bill 898.

The following organizations supportive SB898:

1. Out for Justice (O4J)
2. Marylanders Against Poverty (MAP)
3. National Fines and Fees Justice Center
4. Maryland Center on Economic Policy
5. Leaders of a Beautiful Struggle
6. Public Justice Center
7. The Office of the Public Defender
8. Baltimore Action Legal Team
9. Maryland Volunteer Legal Services (MVLS)