

Unofficial Copy

1997 Regular Session

(PRE-FILED)

E2
HB 1446/96 - JUD

7lr0448

**By: Delegates Taylor, Vallario, Dewberry, Hurson, Arnick, Busch, Curran, Harrison,
Hixson, Kopp, Menes, Owings, and Rawlings**

Requested: September 17, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Court Administration - Collection of Fees - Public-Private Partnership

3 FOR the purpose of establishing a pilot program to allow a private contractor to collect
4 certain court costs, fines, restitution payments, probation fees, and other judicial
5 fees; authorizing the State Court Administrator to enter into certain contracts;
6 establishing a deadline for the contract required by this Act; providing that a
7 contract shall be awarded through competitive sealed proposals; requiring a request
8 for proposal to comply with certain requirements; establishing rules concerning the
9 reimbursement of a private contractor; requiring a private contractor to offer
10 employment to certain government employees; establishing program requirements
11 for a private contractor; establishing a priority for the disbursement of money;
12 authorizing the appointment of a standing master to hold hearings concerning
13 collection matters; establishing procedures for the standing master; authorizing the
14 standing master to issue a report; authorizing a private contractor to collect certain
15 fees; requiring the cooperation of State government units; requiring a certain
16 report; providing for the termination of this Act; and generally relating to the
17 collection of judicial fees.

18 BY adding to

19 Article - Courts and Judicial Proceedings
20 Section 7-406
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1996 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

25 Article - Courts and Judicial Proceedings

26 7-406.

27 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN BALTIMORE
28 CITY AND MONTGOMERY COUNTY THERE IS A PILOT PROGRAM TO ALLOW A
29 PRIVATE CONTRACTOR TO COLLECT THE FOLLOWING:

1 (1) EXCEPT FOR MOTOR VEHICLE OFFENSES THAT ARE NOT REFERRED
2 TO THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC
3 SAFETY AND CORRECTIONAL SERVICES, FOR CRIMINAL CASES IN THE DISTRICT
4 COURT AND CIRCUIT COURT SYSTEMS:

5 (I) COURT COSTS, INCLUDING CRIMINAL INJURIES
6 COMPENSATION COSTS;

7 (II) FINES;

8 (III) RESTITUTION PAYMENTS; AND

9 (IV) ANY OTHER FEE ORDERED BY A COURT TO BE PAID TO A
10 VICTIM OF A CRIME; AND

11 (2) PROBATION FEES.

12 (B) THE STATE COURT ADMINISTRATOR, WITH THE ADVICE OF THE CHIEF
13 JUDGE OF THE COURT OF APPEALS, THE CHIEF JUDGE OF THE DISTRICT COURT,
14 AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, MAY
15 ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS TO ALLOW A PRIVATE
16 CONTRACTOR TO COLLECT ALL MONEY OWED UNDER SUBSECTION (A) OF THIS
17 SECTION.

18 (C) THE COLLECTION OF ALL MONEY UNDER SUBSECTION (A) OF THIS
19 SECTION MAY BE TRANSFERRED TO ONE OR MORE PRIVATE CONTRACTORS BY
20 JULY 1, 1998.

21 (D) (1) CONTRACTS SHALL BE AWARDED THROUGH COMPETITIVE SEALED
22 PROPOSALS.

23 (2) A REQUEST FOR PROPOSAL TO TRANSFER COLLECTION ACTIVITIES
24 SHALL:

25 (I) COMPLY WITH THE PROVISIONS OF DIVISION II OF THE STATE
26 FINANCE AND PROCUREMENT ARTICLE;

27 (II) SET FORTH THE GOALS OF THE PRIVATIZATION; AND

28 (III) SPECIFY THE INCENTIVES THAT WILL BE AVAILABLE TO THE
29 CONTRACTOR.

30 (E) REIMBURSEMENT FOR A PRIVATE CONTRACTOR SHALL BE BASED ON A
31 PERCENTAGE OF THE TOTAL AMOUNT OF MONEY COLLECTED BY THE PRIVATE
32 CONTRACTOR.

33 (F) (1) PRIVATE CONTRACTORS SHALL OFFER EMPLOYMENT TO A
34 GOVERNMENT EMPLOYEE WHO LOSES EMPLOYMENT BECAUSE OF THE TRANSFER
35 OF COLLECTION RESPONSIBILITIES.

36 (2) A PRIVATE CONTRACTOR SHALL OFFER EMPLOYMENT UNDER THIS
37 SUBSECTION:

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1 (I) ON TERMS DEEMED FAIR AND EQUITABLE BY THE STATE
2 COURT ADMINISTRATOR;

3 (II) FOR AT LEAST 2 YEARS, UNLESS THERE IS CAUSE FOR EARLIER
4 DISMISSAL; AND

5 (III) AT A BENEFIT LEVEL COMPARABLE TO THAT OF THE
6 CONTRACTOR'S OTHER SIMILARLY SITUATED EMPLOYEES.

7 (G) UNDER THE PROGRAM, A PRIVATE CONTRACTOR SHALL:

8 (1) HAVE AUTHORITY TO COLLECT MONEY IMMEDIATELY AFTER IT IS
9 DETERMINED THAT MONEY IS OWED;

10 (2) HAVE AUTHORITY TO COLLECT MONEY OWED UNDER THIS
11 SECTION AS A JUDGMENT IN A CIVIL ACTION;

12 (3) BE PRESENT AT ALL RELEVANT COURT PROCEEDINGS TO:

13 (I) OBTAIN NECESSARY INFORMATION; AND

14 (II) ESTABLISH A PAYMENT PLAN THAT INCLUDES PROCEDURES
15 CONCERNING NONPAYMENT; AND

16 (4) DISBURSE MONEY COLLECTED FROM A DEFENDANT TO THE
17 APPROPRIATE PERSON IN THE FOLLOWING PRIORITY:

18 (I) RESTITUTION PAYMENTS;

19 (II) OTHER THAN RESTITUTION PAYMENTS, FEES ORDERED BY A
20 COURT TO BE PAID TO A VICTIM OF A CRIME;

21 (III) FINES;

22 (IV) PROBATION FEES, INCLUDING SUPERVISION AND DRUG
23 TESTING FEES; AND

24 (V) COURT COSTS, INCLUDING CRIMINAL INJURIES
25 COMPENSATION COSTS.

26 (H) (1) IN MONTGOMERY COUNTY AND BALTIMORE CITY THE
27 ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT OR THE ADMINISTRATIVE JUDGE
28 OF THE DISTRICT COURT:

29 (I) MAY APPOINT A STANDING MASTER TO HEAR ISSUES
30 RELATING TO COLLECTION MATTERS UNDER THE PROGRAM; AND

31 (II) SHALL PRESCRIBE THE COMPENSATION, FEES, AND COSTS OF
32 THE MASTER.

33 (2) A HEARING AND PROCEDURES RELATING TO COLLECTION
34 MATTERS UNDER THIS SECTION SHALL BE CONDUCTED AS PROVIDED UNDER THE
35 MARYLAND RULES.

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1 (3) THE REPORT PREPARED BY A MASTER MAY RECOMMEND
2 ADDITIONAL TERMS OF PROBATION IF THE DEFENDANT IS FOUND TO HAVE
3 VIOLATED A TERM OF PROBATION BY FAILING TO PAY ANY MONEY OWED AND MAY
4 INCLUDE ONE OR MORE OF THE FOLLOWING RECOMMENDATIONS:

5 (I) A RECOMMENDATION THAT, EXCEPT FOR RESTITUTION
6 PAYMENTS, A DEBT BE REDUCED OR DISCHARGED;

7 (II) A RECOMMENDATION FOR CONTEMPT PROCEEDINGS OR
8 OTHER SANCTIONS; AND

9 (III) A RECOMMENDATION THAT AN ORDER OF RESTITUTION BE
10 RECORDED AND INDEXED AS A MONEY JUDGMENT.

11 (I) EACH UNIT OF STATE GOVERNMENT AFFECTED BY THE PROGRAM
12 ESTABLISHED BY THIS SECTION SHALL COOPERATE WITH THE STATE COURT
13 ADMINISTRATOR IN IMPLEMENTING THE PROGRAM.

14 SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1,
15 1998 and annually thereafter, the State Court Administrator shall report to the Chief
16 Judge of the Court of Appeals of Maryland, the Chief Judge of the District Court, the
17 Governor, and the General Assembly, subject to § 2-1312 of the State Government
18 Article, on the operation and performance of the pilot program. The report shall assess
19 the program's effectiveness and success in enhancing collection through privatization.
20 The State Court Administrator shall include in the report plans for improving the
21 effectiveness and success of the program.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 1997. It shall remain effective for a period of 4 years and, at the end of June 30,
24 2001, with no further action required by the General Assembly, this Act shall be
25 abrogated and of no further force and effect.