

Written Testimony to the Maryland House of Delegates Environment and Transportation Committee

House Bill 1176: The Fair Fines Act of 2020.

February 27, 2020

The Fines and Fees Justice Center (FFJC) thanks the Maryland House of Delegates' Environment and Transportation Committee for scheduling this important hearing on HB 1176. The Fair Fines Act makes uncommonly good sense. It would increase public safety, ensure that Maryland residents – particularly low-income people of color – do not become trapped in the criminal justice system, and likely result in increased revenues for the state. Its passage would make Maryland a leader in the fines and fees reform movement in the United States. The Maryland Consumer Rights Coalition asked FFJC to provide testimony on HB 1176. FFJC submits this testimony to urge the Committee to pass HB 1176 and to provide data and research to inform the Committee's discussion of the bill.

Fines and Fees Justice Center

The Fines and Fees justice Center is a national hub for information, advocacy and collaboration for the reform of fines and fees. Our mission is to eliminate fees in the criminal legal system and to ensure that fines are proportionate to the offense and the individual. Fines and fees in the justice system hurt millions of Americans – entrenching poverty, exacerbating racial disparities, diminishing trust in our courts and police and trapping people in perpetual cycles of punishment. Across the country, people convicted of felonies, misdemeanors and minor traffic and municipal code violations are charged a fine as punishment and then taxed with fees that are used to fund the justice system and other government services. Millions of people who cannot afford to immediately pay the full amount charged face additional fees, license suspensions, and, all too frequently, arrest and jail.

Working directly with impacted communities and justice system stakeholders, FFJC is building broad-based coalitions from across the political spectrum to reform the imposition and enforcement of fines and fees.

Graduated Economic Sanctions

A fine is a monetary sanction for violation of a law. Dating back to before Magna Carte, fines were adopted as an alternative to incarceration. For centuries, policy makers have agreed that some offenses don't warrant jail but should instead be punished by requiring the payment of money. Like every criminal sanction, the purpose of a fine is to punish and deter. Particularly with respect to traffic tickets, deterrence is the principal goal. We want a person who speeds, for example, to feel the pinch of a speeding ticket so that they will think twice before speeding again.

In the United States today, a fixed amount of money is typically imposed as a sanction for violating the law. For example, in Maryland, the fine for speeding between 10 and 19 miles per

hour over the speed limit is \$90 (exclusive of fees and costs) . In many other parts of the world, notably Western Europe and South America, fines are based on both the nature of the underlying offense **and** the individual's economic circumstances. Known as "day fines," these graduated economic sanctions were first utilized in Finland in 1921, and they are now the norm in 16 European countries and around the world. The premise of day fines is irrefutable. If deterrence is the goal, the amount of money that it would take to deter a middle-class person from engaging in illegal conduct is more than it would take to deter a minimum wage worker and less than it would take to deter a millionaire.

Day fines were piloted in the United States by the United States Department of Justice in the late 1980's and early 1990's. In a highly successful demonstration in 10 counties across the country, judges imposed graduated economic sanctions in a variety of misdemeanor cases. The fines imposed were based on each individual's economic circumstances: the higher a person's income the higher the fine the person received. The results were impressive. Although the amount of fines imposed decreased, the amount collected increased – often substantially, In Bridgeport, Connecticut, for example, nearly 82% of all fines imposed were collected within one year of sentencing. Similarly, in Milwaukee, people sentenced to day fines were more likely to pay in full than people sentenced to traditional fines. While collections increased, the cost of collections decreased. Payments were more often timely, thus reducing the need for court and probation staff to engage in collection activities. In addition, there is considerable evidence that graduated economic sanctions can result in reduced crime and recidivism. In Maricopa County, Arizona, for example, only 11% of defendants sentenced to day fines were rearrested during the pilot compared to 17.3% of defendants sentenced to traditional fines.¹

With respect to revenue, those results have been duplicated more recently. In Texas, for example, the Legislature adopted in 2017, which requires judges in fine-only cases, like traffic, to determine at sentencing if the person convicted has the ability to pay the standard fines and fees imposed. If they do not, the judge is required to waive or reduce the fines and fees, convert them to community service, enroll the person in a payment plan or any combination of those three. In the first year of implementation, the amount of fines and fees imposed decreased and the amount of revenue collected increased. The Texas courts believe that when you right-size fines to an amount people can afford to pay, they pay.

Maryland HB 1178

HB 1178 would pilot graduated economic sanctions with respect to a handful of traffic offenses, allowing Maryland to test the proposition of graduated economic sanctions. The fine a person pays would be based on their adjusted gross income. By providing a schedule of fines and a

¹ A comprehensive study of the DOJ pilots was conducted by UCLA Law Professor Beth Colgan. Her seminal article on the pilots can be found here: <https://ilr.law.uiowa.edu/print/volume-103-issue-1/graduating-economic-sanctions-according-to-ability-to-pay/>

formula for determining a person's adjusted gross income, HB 1178 ensures that objective factors will be used to determine both their income and the fine.

As written, the Act is an excellent starting point. We believe, however, that one amendment is critical. Both fees² and fines should be adjusted pursuant to the formula provided in the bill. Without including fees, a person could still owe unaffordable amounts of money. Indeed, that was the conclusion of the DOJ pilot.

Conclusion

FFJC urges the Committee to pass The Fair Fine Act. We are confident that graduated economic sanctions will improve public safety and Maryland's bottom line. Fines and Fees Justice Center will continue to work for a more just and equitable criminal system. We know this Committee will, too.

Thank for the opportunity to submit this testimony.

Lisa Foster
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Fines and Fees Justice Center

² By fees, FFJC means to include costs, surcharges, special assessments and fees; that is, any other monetary amount imposed by the Court.