

JOTF_FAV_SB679

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Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 679:

Pretrial Release – Reimbursement of Special Condition Costs

TO: Hon. William Smith, Chair, and Members of the Senate Judicial Proceedings Committee
FROM: Christopher Dews, Policy Advocate
DATE: March 10, 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 Senate Bill 679 as a means to ensure that working families are not pushed further into debt, simply due to an interaction with the criminal justice system.

JOTF's recently released report entitled, "The Criminalization of Poverty," studies how the fines and fees related to the criminal justice system burden the poor, even once they are released. Studies show that 80% - 85% of those who are released have debt due to fees incurred while incarcerated, which includes fees for electronic monitoring, home detention monitoring, and GPS monitoring. This estimates to approximately 10 million individuals who owe more than \$50 billion in debt that is never going to be repaid due to financial hardships. This debt further impoverishes already indigent individuals, who lack access to educational opportunity and are less employable due to their criminal record.

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) remains vehemently opposed to the dual structure of the criminal justice system: one for the rich and one for the poor. Hence, our strong advocacy to eliminate the reliance on cash bail in Maryland. 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.

Senate Bill 679 seeks to address this issue by requiring the county to reimburse a defendant for the costs necessary to satisfy special conditions of release imposed by the court if they are found not guilty on all charges. If enacted, this bill would simply prohibit the unnecessary levying of additional fees and fines on those who have the least capacity to pay them by reimbursing those who are found innocent. And for these reasons, we urge a **FAVORABLE** vote on Senate Bill 679.

ACLUMD_Holness_FAV_SB 679

Uploaded by: HOLNESS, TONI

Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
March 10, 2020**

**SB 679 Criminal Procedure - Pretrial Release - Reimbursement of
Special Condition Costs**

TONI HOLNESS
PUBLIC POLICY DIRECTOR

FAVORABLE

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OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

The ACLU of Maryland supports SB 679, which would require jurisdictions to reimburse individuals who have been found not guilty for any fees imposed pursuant to their conditions of pretrial release.

Supervision fees may amount to debtors' prisons

More than three decades ago, the U.S. Supreme Court clearly established that the promises of equality and fairness embedded in the Fourteenth Amendment to the U.S. Constitution protect against the jailing of poor people simply because of their inability to pay. Yet, for many defendants throughout the state, the fees associated with pretrial release may be prohibitively high. Consider for example, Calvert County where a defendant is charged \$12 for each urinalysis and \$5 per day for GPS monitoring—that is about \$150 per month. In Carroll County, defendants are charged \$10 per day, or \$300 per month for GPS monitoring.¹ Families go into debt, bills go unpaid and groceries are foregone in order to pay fees for basic pretrial services. Failure to pay these fees may result in re-incarceration, and the resulting cycle of poverty and jail can be nearly impossible to escape. Worse, these are persons who the courts determined were safe enough to be released while they await their trial and in the case of SB 679, persons who were ultimately found not guilty.

Supervision fees are fraught with potential conflicts of interest

The collection of fees by local jurisdictions raises serious conflict of interest concerns. The collection of fees by the government creates a conflict of interest because the government now has a financial interest in ordering pretrial services for defendants. In 2019, Prince George's County reported that it collects \$34,237 annually from pretrial services fees. The fiscal and policy note accompanying HB 758 (2019) noted that the reimbursement of these fees could total \$2.3million annually.² Although many other jurisdictions report that they do not collect fees for pretrial services, it is foreseeable that should pretrial

¹ HB 480 Criminal Procedure - Pretrial Release – Fees, Fiscal and Policy Note (2018).

² HB 758 Criminal Procedure - Pretrial Release - Reimbursement of Special Condition Costs, Fiscal and Policy Note (2019).



AMERICAN CIVIL LIBERTIES UNION
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services be expanded in the future, the potential accompanying fees could be a significant revenue generator for local governments.

For these reasons, we urge a favorable report on SB 679.

SenatorWashington_FAV_SB679

Uploaded by: Senator Washington, Senator Washington

Position: FAV

MARY L. WASHINGTON, PH.D
Legislative District 43
Baltimore City

Education, Health, and
Environmental Affairs Committee

Chair
Joint Committee on Ending
Homelessness

Chair
Joint Committee on Children,
Youth, and Families



THE SENATE OF MARYLAND
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Support SB 679 – Public Safety – Pretrial Services Program Grant Fund – Extension and Program Requirements

Dear Chair Smith, Vice Chair Waldstreicher and Members of the Committee,

As amended, SB 679 seeks to extend the Pretrial Services Program Grant Fund for an additional 5 years and prohibit a pretrial services program that receives grant funding from charging fees to defendants who participate in the program.

The Pretrial Services Program Grant Fund was established in 2018 with the passage of House Bill 447. The Fund is administered by the Governor’s Office of Crime Control and Prevention and its purpose is to “assist counties in the development, implementation, and improvement of pretrial services programs that reduce the size and cost of pretrial detention populations on the county level, reduce recidivism, and improve public safety outcomes, specifically the safety of victims and witnesses.”

These pretrial services are essential components of changing outcomes for individuals within our criminal justice system. However, we know that fines and fees imposed on incarcerated individuals are contributing to high rates of poverty and put the overwhelming majority of these already vulnerable people into debt well beyond their release. This only serves to establish additional barriers to successful reentry and their ability to attain educational opportunities and employment.

The amendment I am putting forward specifically states that, “A pretrial services program that receives a grant under this subtitle may not charge a fee to any defendant for participation in the program.” Simply put, a defendant should not be required to pay a county for services associated with a program that is funded by a State grant.

Thank you and I respectfully ask for your favorable report.

In partnership,

A handwritten signature in blue ink that reads "Mary L. Washington".

Mary L. Washington, PhD

St. Mary's Commissioners_UNF_SB679

Uploaded by: Guy, James

Position: UNF

ST. MARY'S COUNTY GOVERNMENT

**COMMISSIONERS OF
ST. MARY'S COUNTY**



James R. Guy, President
Eric Colvin, Commissioner
Michael L. Hewitt, Commissioner
Todd B. Morgan, Commissioner
John E. O'Connor, Commissioner

Senate Bill 679

Criminal Procedure – Pretrial Release – Reimbursement of
Special Condition Costs

Hearing: March 10, 2020

OPPOSE

February 14, 2020

The Honorable William C. Smith, Jr., Chairman
Judicial Proceedings Committee
2 East, Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Smith:

The Commissioners of St. Mary's County OPPOSE Senate Bill 679 – Criminal Procedure – Pretrial Release – Reimbursement of Special Condition Costs - which is being heard on March 10, 2020 in the Judicial Proceedings Committee.

We do not charge offenders a fee on Pre-Trial; however, if there are costs incurred for programming, we do not feel that we should have to reimburse these costs. Therefore, we OPPOSE the introduction of this legislation and do not believe this legislation would benefit the citizens of St. Mary's County. We look forward to working with you on this and other initiatives throughout the session.

Sincerely,
COMMISSIONERS OF ST. MARY'S COUNTY


James Randy Guy, President

CSMC/AB/sf
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The Honorable William C. Smith, Jr., Chairman

February 14, 2020

Cc: Senator Jack Bailey
Delegate Matthew Morgan
Delegate Gerald Clark
Delegate Brian Crosby
Commissioner Eric Colvin
Commissioner Michael Hewitt
Commissioner Todd Morgan
Commissioner John O'Connor
Dr. Rebecca Bridgett, County Administrator
David Weiskopf, County Attorney

MCPA-MSA_UNF_SB679

Uploaded by: Mansfield, Andrea

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 10, 2020

RE: **SB 679- Criminal Procedure - Pretrial Release - Reimbursement of
Special Condition Costs**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 679. SB 679 would require counties to reimburse defendants that have been found not guilty for costs they incurred to comply with pretrial conditions judges imposed.

While the intention of SB 679 may be to address costs imposed on defendants, the bill may have unintended consequences that may disincentivize pretrial programs and subsequently harm the very defendants it is intending to help. Many counties do not charge fees for their pretrial programs and fees for indigent defendants are already waived in many circumstances across the criminal justice system. The costs that remain are nebulous or potentially significant. These include transportation costs associated with the special conditions and costs for substance use disorder or mental health treatment. Counties would also be forced to reimburse for the costs of private electronic monitoring which a defendant may opt for and corporate surety fees. Because the ultimate disposition of a case is outside of their control, counties would not even be able to budget for these reimbursements.

As a result, counties may be forced to reconsider their use of limited resources. If SB 679 passes, some counties may need to consider whether it is feasible to offer pretrial services and whether they have the fiscal resources to reimburse for them, if necessary. Criminal justice reform efforts have encouraged the expansion of pretrial services. SB 679 could deter jurisdictions from implementing or continuing these services.

For these reasons MCPA and MSA OPPOSE SB 679 and urge an UNFAVORABLE committee report.

MACo_UNF_SB679

Uploaded by: Mehu, Natasha

Position: UNF



Senate Bill 679

Criminal Procedure - Pretrial Release - Reimbursement of Special Condition Costs

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: March 10, 2020

From: Natasha Mehu

The Maryland Association of Counties (MACo) **OPPOSES** SB 679 as it broadly and unreasonably requires counties to reimburse certain defendants for the costs of pretrial conditions that have been imposed upon them by the courts. While the intention of SB 679 may be to address costs incurred by defendants, the bill may have unintended consequences that may disincentivize pretrial programs and subsequently harm the very defendants it is intending to help.

SB 679 would require counties to reimburse defendants that have been found not guilty for costs they incurred to comply with pretrial conditions judges have imposed on them. When a defendant has been found not guilty, the judge or a jury has decided the evidence did not prove beyond a reasonable doubt that the individual committed a crime. Using figures from the 2018 Maryland Judiciary Statistical Abstract included in the bill's fiscal note, it can be estimated that over 7,660 cases in district and circuit court resulted in a not guilty disposition.

Maryland Rule 216.1(d) lists several special conditions that may be imposed on a defendant to help ensure their appearance in court or to ensure the safety of victims or members of the community. These conditions range from no contact orders and curfews to drug and mental health treatment and surety bonds. It would be unreasonable to require the reimbursement of pretrial condition fees for such a broad range of conditions. Many counties do not charge fees for their pretrial programs and fees for indigent defendants are already waived in many circumstances across the criminal justice system. The costs that remain are nebulous and potentially significant - they include transportation associated with the special conditions and expenses for substance use disorder or mental health treatment. Counties would also be forced to reimburse for corporate surety fees and certain opt-in services, like private electronic monitoring. Because the ultimate disposition of a case is outside of their control, counties would not even be able to budget for these reimbursements.

As a result, counties may be forced to reconsider their use of limited resources. If SB 679 passes, some counties may have to consider whether it is feasible to offer pretrial services and whether they have the fiscal resources to reimburse for them, if necessary. It is possible that some will decide not to offer pretrial services at all and avoid the fiscal uncertainty. In recent years, reforms to Maryland's criminal justice system have encouraged the expansion of pretrial services as an equitable best practice. SB 679 may unintentionally hinder that progress. Accordingly, MACo **OPPOSES** SB 679.