

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 358
Victim's Rights - Restitution
DATE: January 29, 2020
(2/4)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 358. This legislation alters procedures relating to the award of a judgment of restitution, requires a court to enter a judgment of restitution under certain circumstances, prohibits a court from considering a certain individual's current ability to pay restitution under certain circumstances, and requires the Administrative Office of the Courts, in consultation with the Governor's Office of Crime Control and Prevention, to make certain recommendations and report in a certain manner relating to restitution in MDEC.

The Judiciary has concerns that the proposed legislation requires the court to assume responsibility for tracking restitution payments, a function that is currently done by the Department of Parole & Probation. This function is not an appropriate role for the Judiciary. Implementation of this tracking will require significant resources to establish processes for tracking restitution.

In addition, it is completely unworkable and problematic for the court to address failures to pay, as this would place the court in the position of initiating a violation proceeding and presenting evidence through court employees, rather than through a probation agent who can present a summary of payment records.

Further, this bill takes away judicial discretion and prohibits the judge from taking into consideration an individual's ability to pay in certain circumstances.

This bill would also restrict the juvenile court judge's discretion to decide when to use the rehabilitative tool of restitution in appropriate cases. This is inconsistent with the primary purpose of the juvenile court, which is to rehabilitate the juvenile.

cc. Hon. Adrienne Jones
Judicial Council
Legislative Committee
Kelley O'Connor