

SUPPORT SB 23 and 229.pdf

Uploaded by: Caroom, Philip

Position: FAV

SUPPORT SB 23 & SB 229 – PRETRIAL SERVICES



Testimony of Phil Caroom

February 3, 2021

Maryland Alliance for Justice Reform supports both SB23—as to operation of pretrial programs-- and SB 229 –as to funding of pretrial programs--for their efforts to eliminate fees charged by some counties for citizens’ participation in pretrial release supervision programs. Three factors should persuade the committee to support such programs: Constitutional, fiscal and public safety.

Constitutional concerns: Poor citizens should not be held in pretrial detention just because they afford pretrial release fees any more than they should be held in detention because they cannot pay a bail bond that more affluent citizens could pay. The Supreme Court has ruled that “*Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception... [The government may hold those who] pose a threat to the safety of individuals or to the community which no condition of release can dispel*” and those found likely to flee. Because inability to pay a small pretrial detention supervision fees do not “pose a threat” or show likelihood of flight, Maryland counties that rely on user-fees for pretrial supervision may be seen to violate their citizens’ constitutional rights.

Taxpayers’ concerns: The failure to maintain such programs for the benefit of citizens is penny-wise and pound-foolish. Maryland pretrial detention costs to our counties, according to recent years’ estimate, range from \$83-\$153 per-inmate per-day. By comparison, pretrial assessment & supervision programs cost approximately \$2.50 per person per day. By themselves, these

Public safety: Studies show that “failure to appear” rates for those with pretrial supervision equals those of our traditional bail systems. With nondiscriminatory pretrial risk assessments, those “high risk” to reoffend may be kept in pretrial detention and those “low or moderate” may be released safely with appropriate supervision conditions.

For all these reasons, Maryland Alliance for Justice Reform strongly supports both SB 23 and SB 229.

--

Please note: This testimony is offered for Md. Alliance for Justice Reform (www.ma4jr.org), not for the Md. Judiciary.

SB229 _LatinoCaucus_FAV.pdf

Uploaded by: Caucus, MD Latino

Position: FAV



MARYLAND LEGISLATIVE LATINO CAUCUS

Lowe House Office Building, 6 Bladen Street, Room 200 · Annapolis, Maryland 21401
Phone 410-841-3374 | 301-858-3374 · 800-492-7122 Ext. 3374 · Fax 410-841-3342 | 301-858-3342
latino.caucus@house.state.md.us · www.mdlatinocaucus.org

DAVID FRASER-HIDALGO, CHAIR
JOSELINE A. PEÑA-MELNYK, VICE-CHAIR
GABRIEL ACEVERO, TREASURER
JESSE T. PIPPY, SECRETARY
CESIAH FUENTES, EXECUTIVE DIRECTOR

MEMBERS

ALFRED CARR
ALONZO WASHINGTON
ANNE HEALEY
ARIANA B. KELLY
BEN BARNES
BENJAMIN KRAMER
BONNIE CULLISON
BROOKE LIERMAN
CAROL L. KRIMM
CHARLOTTE CRUTCHFIELD
CHERYL KAGAN
CRAIG ZUCKER
DAVID MOON
DIANA FENNELL
EMILY SHETTY
EREK BARRON
ERIC LUEDTKE
GERALDINE VALENTINO-SMITH
GUY GUZZONE
HEATHER BAGNALL
J. SANDY BARTLETT
JAMES ROSAPEPE
JARED SOLOMON
JAZZ LEWIS
JEFF WALDSTREICHER
JEN TERRASA
JESSICA FELDMARK
JHEANELLE WILKINS
JILL P. CARTER
JIM GILCHRIST
JULIAN IVEY
JULIE PALAKOVICH CARR
KAREN LEWIS YOUNG
KEN KERR
LESLEY LOPEZ
LILY QI
LISA BELCASTRO
LORIG CHARKOUDIAN
MAGGIE MCINTOSH
MALCOLM AUGUSTINE
MARC KORMAN
MARY A. LEHMAN
MARY WASHINGTON
MELISSA WELLS
MIKE ROGERS
NICOLE WILLIAMS
PAMELA BEIDLE
PAMELA QUEEN
REGINA T. BOYCE
ROBBYN LEWIS
SHANE PENDERGRASS
SHANEKA HENSON
SHEILA RUTH
SHELLY HETTLEMAN
STEPHANIE SMITH
SUSAN C. LEE
TERRI HILL
VAUGHN STEWART
WANIKA FISHER
WILL SMITH

TO: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: February 3, 2021

RE: SB229 Public Safety – Pretrial Services Program Grant
Fund – Extension and Program Requirements

The MLLC supports SB229 Public Safety – Pretrial Services Program Grant Fund – Extension and Program Requirements.

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB229.

Pretrial services programs perform two crucial functions in the effective administration of criminal justice: gather and present information about newly arrested defendants and about available release options, while also supervising and monitoring the defendants release from custody during the pretrial period. When both functions are performed well, jurisdictions can minimize unnecessary pretrial detention, increase public safety, and lessen discrimination between rich and poor in the pretrial process.

It is well known that race, and ethnicity can impact who is detained pretrial. Latinos are disproportionately represented among pretrial detainees, and in large urban areas, Black felony defendants are over 25% more likely than white defendants to be held pretrial. According to the [Prison Policy Initiative](#), as of 2002 (the last time the government collected this data nationally), about 29% of people in local jails were not convicted, meaning they were imprisoned while awaiting trial or another hearing. Nearly 7 in 10 of these detainees were people of color, with Black (43%) and Latino (19.6%) defendants overrepresented compared to their share of the total U.S. population. One of the main reasons why minorities continue to be affected by this is the fact that most cannot afford to pay the fees imposed by the pretrial service program.

SB229 prohibits pretrial services programs that receive certain grants from charging a fee to a defendant for participating in such program. This would apply a more fair and equal use of our justice system and remove discriminatory, price tag barriers against individuals who cannot pay the associated fees.

The MLLC supports this bill and urges a favorable report on SB229.

2021-02-03 SB 229 (Support).pdf

Uploaded by: Jung, Roy

Position: FAV

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.
410-576-6584

February 3, 2021

TO: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: The Office of the Attorney General

RE: SB 229 (HB 126) – Public Safety – Pretrial Services Program Grant Fund –
Extension and Program Requirements – **Letter of Support**

The Office of the Attorney General urges the Judicial Proceedings Committee to favorably report Senate Bill 229. Senator Waldstreicher and Senator Carter's legislation extends the Pretrial Services Program Grant Fund another five years, through June 30, 2028, and provides 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."

It bears remembering that any eligible county participating in the Pretrial Services Program Grant Fund is providing such services to individuals who have not yet been convicted of a crime. Hence, it would be antithetical to our system of justice and the presumption of innocence for the counties in receipt of State grants to pass along to pretrial defendants the expenses associated with mandated drug and alcohol testing, GPS monitoring, or substance abuse, mental health, or mediation referrals.

Just as the Attorney General supported bail reform to prevent long-term pretrial detentions of individuals merely due to their indigency, and just as he supported eliminating fee-based driver's licenses suspensions for people of limited means, he also supports the provision of pretrial services free of cost to those individuals who are not yet convicted.

For all of the foregoing reasons, the Office of the Attorney General urges the Committee to favorably report Senate Bill 229.

cc: Judicial Proceedings Committee Members

SB0229-JPR_MACo_SUP.pdf

Uploaded by: Sanderson, Michael

Position: FAV



Senate Bill 229

Public Safety – Pretrial Services Program Grant Fund – Extension and Program Requirements

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: February 3, 2021

From: Michael Sanderson

The Maryland Association of Counties (MACo) **SUPPORTS** SB 229. This bill would extend a grant program designed to promote locally-supported pretrial release programs, and also adds the condition that continued receipt of state funding depends upon jurisdictions discontinuing practices of billing program participants. Counties are willing to accept this incentive-laden approach going forward and support this compromise proposal.

Maryland, like many states, has promoted advances in criminal justice – ranging from broad-based sentencing reforms to procedural changes for pretrial defendants in local facilities. The move toward pretrial alternatives to confinement has been productive and positive, in general, and is at its best when aided by an appropriate assessment tool. Maryland has provided state grant funding for jurisdictions advancing these best practices, but that funding is set to expire without an extension.

During prior year legislative hearings, bill sponsors and committee members have expressed concern over local jails and their vendors, in some cases, charging pretrial defendants to help offset costs of their alternative arrangements – typically GPS-style location devices to effect home-based requirements. SB 229 proposes to merge these two related ideas – to extend the beneficial state funding, but to condition access to it upon elimination of such fees. Counties recognize the benefits of finding a suitable disposition to both lingering issues, and support this framework.

SB 229 will extend incentives for county pretrial programs, and further advance fairness and flexibility for affected defendants. For these reasons, MACo **SUPPORTS** SB 229 and urges a **FAVORABLE** report.

OPD Position on SB0229.pdf

Uploaded by: Rothstein, Melissa

Position: FWA



POSITION ON PROPOSED LEGISLATION

BILL: SB 229 Public Safety – Pretrial Services Program Grant Fund
POSITION: SUPPORT WITH AMENDMENTS
DATE: January 22, 2021

The Maryland Office of the Public Defender respectfully requests that the Senate Judicial Proceedings Committee issue a favorable report on Senate Bill 229, with amendments.

Senate Bill 229 would extend the Pretrial Services Program Grant Fund and prohibit pretrial services programs from charging fees to defendants for their participation. The Maryland Office of the Public Defender supports funding to provide for greater statewide consistency on pretrial services and a wider range of tools available to facilitate release. The Office also supports the requirement that pretrial grant programs may not charge a fee to defendants. However, it opposes the reliance on risk assessment tools, and strongly encourages prioritizing funding for systems that currently lack pretrial services.

Most defendants can be released without any pretrial services and will pose no safety or flight risk. National data shows that most people return to court if they are sufficiently informed of when and where they need to be, and Maryland's failure to appear rates are consistently below the national average. To the extent that oversight is needed, there needs to be greater consistency statewide and an appropriate range of tools that do not impose financial burdens on defendants in exchange for their release. This bill furthers those needs.

The Pretrial Services Program Grant Fund ("the Fund") requires the use of a validated risk assessment tool. While once considered a best practice, these tools have become increasingly controversial due to their inherent racial biases. The Pretrial Justice Institute, which was previously a strong advocate of these tools, have since changed their position in recognition of the structure racism and institutional inequities that underlie the algorithms and data at the heart of these instruments. Statement of Pretrial Justice Institute, February 7, 2020, <https://www.pretrial.org/wp-content/uploads/Risk-Statement-PJI-2020.pdf>. Addressing the racial disparities in the criminal justice system require critical examination of these tools, and the Fund should no longer require or automatically endorse their use.

For further information please contact Melissa Rothstein, Director of Policy and Development at melissa.rothstein@maryland.gov or (410) 767-9853, or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or 443-908-0241.

The Fund should also prioritize expenses that will expand release and remove financial conditions that result in unnecessary detention, including the so-called non-financial condition of private home detention and its costs.

The prior round of grants under the fund encouraged well-established pretrial programs to secure additional resources, allowing for increased monitoring of defendants even where it may not be needed. Fund resources should not be used to increase monitoring where release on recognizance can be sufficient; but to enable all jurisdictions to provide monitoring where needed without shifting those costs to the defendant. Targeted funding should be provided to ensure a base level of pretrial options in every county, and for DPSCS to secure the resources it needs to expand release of the Baltimore City pretrial population.

For these reasons, the Maryland Office of the Public Defender urges a favorable report with amendments on Senate Bill 229.

* * *

CY SB 226 Opposition.pdf

Uploaded by: York, Caryn

Position: UNF

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN OPPOSITION OF SENATE BILL 229:

Public Safety – Pretrial Services Program Grant Fund – Extension and Program Requirements

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

FROM: Caryn York, CEO

DATE: February 3, 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. In support of our advocacy, we also seek to eliminate discriminatory barriers to meaningful opportunities to vulnerable populations. We oppose Senate Bill 229 specifically due to language regarding use of “race neutral” risk assessment tools.

When an individual is arrested and/or incarcerated, they can find themselves paying multiple fines and fees and financially indebted to various institutions during the pretrial, sentencing, incarceration, and post-conviction phases. These include fees for probation and parole, home detention, jail room and board, public defenders, work release, expungement, and much more. These fees further punish and impoverish indigent populations and have created an exuberant financial burden on Marylanders, particularly indigent individuals.

The Due Process Clause of the Fifth Amendment, incorporated to the States through the Fourteenth Amendment provides that no individual should be deprived of life, liberty or property without DUE PROCESS of the law. Yet every day, innocent pretrial individuals are charged overwhelming expenses during the pretrial phase, resulting in a criminalization of poverty, and by default, race. Further, it creates a parasitic, capitalist power dynamic, whereby the financial stability of the state rests solely on the backs of the poor, and too often poor Black and Brown communities. To use the city of Ferguson as an example, in 2015, the Department of Justice reported that the revenue generated from the collection of criminal justice fines and fees made up \$3.09 million out of total of \$11.07 million in general revenue funds. The practice of funding an entire city on the backs of individuals that have not been convicted of a crime is not only morally repugnant but is also an unconstitutional State practice that violates the Fourteenth Amendment.

SB 229 seeks to provide a Pretrial Grant Fund for jurisdictions that offer pretrial services for individuals. It, however, still falls beneath Constitutional muster as it does not mandate that independent counties provide pretrial services to pretrial individuals. Merely incentivizing jurisdictions to offer pretrial services to individuals— still places the ultimate financial onus on individuals. Which in turn, still results in a criminalization of poverty.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Furthermore, the legislation explicitly requires jurisdictions to use “race-neutral” risk assessments in order to be eligible to receive funds from the Grant Fund. The very term “race-neutral risk assessment” is oxymoronic and ignores the historical deployment of risk assessments. In fact, the creation of risk assessment was implemented for the very purposes of creating an unforgiving power dynamic within a racially-polarizing criminal justice system – whereby we disproportionately punish people of color.

By merely placing the term “race-neutral” at the beginning of a racially discriminatory practice does not dissolve a practice of its discriminatory impact to communities of color. In fact, it further obscures the violent nature of “risk assessment” tools. As such, Senate Bill 229 requires jurisdictions to participate in this racially discriminatory practice, incentivizes discrimination.

JOTF is committed to opposing any legislation that seeks to criminalize poverty and race, and creates barriers for individuals to obtain meaningful opportunities. While we appreciate the intent of the bill sponsor, we believe that Senate Bill 229, as currently drafted, serves to sustain the criminalization of poverty and race in Maryland. For these reasons, we respectfully urge an unfavorable report of Senate Bill 229.