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POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 897- Courts and Judicial Proceedings - Court Fines - Payment

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/02/2022

The Maryland Office of the Public Defender respectfully requests that this Committee issue a favorable report on Senate Bill 897.

This bill establishes that if a defendant fails or is unable to pay a fine as ordered by a court, the court **must** investigate the reasons for the failure or inability to pay the fine. Currently, the court is not required to do so. The bill further alters Md. Code, Courts and Judicial Proceedings Article § 7.504 by specifying that a court may order that the individual be committed to a correctional facility if the court finds that the nonpayment of the fine is **contumacious and is not due to indigence**. Thus, ensuring due consideration is given to a person's financial situation. Further, repealing the general provision authorizing the court to direct that an individual be imprisoned until the fine, or part of the fine, is paid. Moreover, the bill extends the current provision, under § 7-504.1, which permits the court to authorize the clerk of the court to approve an individual installment plan agreement for the payment of court-ordered fines, from just traffic fines to all court ordered fines and fees.

The Maryland Office of the Public Defender urges this Committee to consider the import and alleviating undue financial hardships on those in the criminal system. Unfortunately, those hardships have unfairly impacted generations of individuals and families for nearly as long as the criminal justice system has existed. In 1971, Maryland created its Public Defender's Office to assist indigent individuals facing criminal prosecution with the assistance of counsel. A necessary, yet small, step to aid Marylanders experiencing financial strain. Maryland must do

more to address the historically imbedded and vast pathways that continue to cripple indigent individuals and families.

In 2018, JOTF released a report called “The Criminalization of Poverty” which dissects the pathways in which Maryland residents from impoverished communities unjustly encounter the Criminal Justice System. Part II of the report goes forward to outline how extensive fines and fees related to interactions with the criminal justice system impoverish Marylanders, specifically lower-income communities of color.

Marylanders from low-income communities, especially communities of color, often face gratuitous criminal-justice-related debts. These “fees for service” include court-related fees (administrative, jury, and restitution), home detention, parole and probation, public defender representation (application and reimbursement), jail room and board (especially for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). The goal of fees is often to recoup costs and generate revenue. A burden that should not fall on Marylanders already experiencing financial strain.

In 2018, Alexes Harris, a sociologist at the University of Washington, estimated that 80-85% of incarcerated persons now leaving prison owe criminal justice costs. This is estimated to amount to some 10 million Americans who owe more than \$50 billion in criminal justice debt. These costs serve to further impoverish already indigent individuals leaving them in a spiral of debt. This bill is a necessary step to improve the way that our courts give due consideration to a person’s financial hardship.

Given that Maryland’s criminal justice system disproportionately, and often unnecessarily, burdens lower-income communities of color, Senate Bill 897 is an important step towards alleviating the damaging financial debts arising from court-related fines and fees. This Bill is especially critical to alleviate the burden these fees have on indigent communities, especially communities of color.

For these reasons, we strongly urge a favorable report on Senate Bill 897.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.