

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Joseph M. Getty  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 897  
Courts and Judicial Proceedings – Court Fines - Payment  
**DATE:** February 23, 2022  
(3/2)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 897. The bill makes it mandatory for the court to investigate the reasons for a defendant's failure or inability to pay a fine ordered by court, including the defendant's financial and family situation and whether nonpayment of a fine is contumacious or due to indigence. If after investigation the nonpayment is contumacious and not due to indigence, the court may order the individual committed to a correctional facility. The proposed legislation also allows the Clerk of Court to approve an individual installment plan for the payment of the fine.

The proposed legislation makes it mandatory for a judge to investigate a defendant's ability to pay a fine. This is an imposition upon the separation of powers and adds the role of investigator to the judge's duties which is inappropriate and potentially unethical (*see* Article 8 of the Maryland Constitution's Declaration of Rights recognizes "[t]hat the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other; *see also Attorney Gen. of Maryland v. Waldron*, 289 Md. 683, 699 (1981),” “There can be no doubt, however, that the deferential respect accorded the legislative branch by the judicial must neither undermine nor dilute the fundamental authority and responsibility vested in the judiciary to carry out its constitutionally required function.”).

Requiring the judge to act as an investigator is not a role that is, or should be, undertaken by a judge. While the intent of the bill is likely to ensure that defendants are not incarcerated as the result of inability to pay a fine, functionally, it would cause the court to not only to be the finder of fact but the investigator of those facts.

This bill would also have a significant operational and fiscal impact on the Judiciary. The required investigations and expansion of the availability of payment plans would consume judicial and clerical resources that would otherwise be available for processing

and trying cases, which would require additional personnel. In the proposed expansion of traffic installment payment plans (Senate Bill 234 from the 2020 legislative session), the Judiciary anticipated the need for 26 additional District Court clerks (2 in each district and 2 at the Traffic Processing Center to monitor plans). In addition to 26 additional clerks in the District Court, the circuit courts anticipate needing an additional 23.5 clerks (2 each in the 5 large courts, 0.5 each in the 7 small courts, 1 each in other courts). The total personnel and operating costs for an estimated 26 additional clerks in the District Court and 23.5 additional clerks in the circuit courts is **\$3,363,476**, in the first full fiscal year.

Installment plans are not an automated process. For traffic installment plans, in counties that have implemented the new MDEC case management system, a program is available to enter the initial payment plans, but tracking is done manually. For counties that have not implemented MDEC, the entire process is manual from the initial request and subsequent requests, notices, tracking due dates, processing payments and defaults. In addition, the Judiciary does not currently have a process in place to determine a person's eligibility to pay. Fines collected for case types other than traffic will have to be monitored in each court location and cannot be centralized like fines collected for traffic violations, as there is no Traffic Processing Center for the processing of other types of court fines.

The Judiciary's greatest challenge in managing payment plans is accommodating plans that include fines in multiple counties and in two different case management systems. Maintaining two separate case management systems is also an obstacle to developing and automating processes and notices.

In addition, the data shows that compliance with installment plans is insubstantial. See below:

<b>District Court Traffic Installment Payment Plan Data</b> <b>October 1, 2018 – December 31, 2021</b>			
<b>Month</b>	<b># of Plans Implemented</b>	<b># of Plans Defaulted On</b>	<b>Default Rate %</b>
<b>FY19 Totals</b>	<b>1,401</b>	<b>807</b>	<b>57%</b>
<b>FY20 Totals</b>	<b>1848</b>	<b>1334</b>	<b>72%</b>
<b>FY21 Totals</b>	<b>9063</b>	<b>6379</b>	<b>80%</b>
<b>FY22 Totals</b>	<b>2224</b>	<b>1817</b>	<b>83%</b>

If enacted, the Judiciary anticipates this legislation will have a significant fiscal and a significant operational impact.

<b>SB0897 Initial Cost of Implementation</b>	
Programming, including Reports	<b>\$98,871.84</b>
Additional Needed Staffing	<b>\$3,363,476.00</b>
<b>TOTAL</b>	<b>\$3,462,347.84</b>

cc. Hon. William Smith, Jr.  
Judicial Council  
Legislative Committee  
Kelley O'Connor