

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 897:

Courts and Judicial Proceedings - Court Fines - Payment

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

FROM: Caleb Jass, Policy Advocate

DATE: March 2nd, 2022

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. We support **Senate Bill 897** as a means to establish that an individual installment plan agreement may be approved for a defendant who is required to pay one or more court-ordered fines of any type in order to lessen the financial burden of such payments.

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. 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.

Marylanders from low-income communities, especially communities of color, find themselves often strapped with gratuitous criminal-justice-related debts. In 2018, Alexis 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.

The Department of Parole and Probation also reports that they charge a monthly fee of \$40 for every individual on parole and \$50 to every individual on probation. These fees are used to reimburse the department for services rendered and are assigned by either the judge (probation), commissioner (parole), or another judicial official that the court deems suitable. [Data](#) from the National Institute of Corrections reports that as of December 31, 2018, the Maryland Department of Corrections had 70,248 persons on probation and 10,338 on parole. When applying the probationary fee of \$50 to this population for that month (December 2018), we arrive at a grand total of over \$3.5 million to the state. Expanded annually, the total cost to individuals on probation would be over \$42 million. Considering Parole, the monthly intake is \$413,520 or nearly \$5 million annually. Using the December numbers as an experimental basis, it is safe to assume that the state collected \$47 million annually from this program.

The dire concern with Parole and Probation fees revolve around the consequences for an individual that does not have the ability to pay. Non-payment counts as a violation of probation which risks incarceration and the fee is sent directly to the Central Collections Unit which adds on average 17% to the debt. In certain circumstances, the judge, commissioner, or leading judicial official can waive payments but this does not happen often. As such, the current system is essentially a debtor's prison which is illegal under section 38 of the Maryland Constitution.

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Next for consideration is possible reimbursement fees for the use of a public defender. A public defender is allotted by constitutional mandate to any individual facing a trial that could potentially lead to incarceration. The vast majority of individuals who use the services of a public defender qualify as indigent under Criminal Procedure §16–210 and are supposed to receive this service for free. However, data is mixed on defendants owing reimbursement fees throughout the state. Some counties have charged individuals post-trial reimbursement fees if the trial ended in a guilty disposition.

The 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. Additionally, the bill expands the provision of the current law of approving an individual installment plan agreement for the payment of court-ordered fines, for a defendant who is required to pay a fine for one or more traffic offenses, to include the offering of an installment plan agreement for the payment of one or more court-ordered fines of **any type**. This would allow for many incurring significant legal fees associated with the already existing fines they may have acquired, to pay their debt in a manner that takes the immediate financial burden off of them. For these reasons, we strongly urge a favorable report on **Senate Bill 897**.